

# Transport Canada

## Status report on access requests in a deemed-refusal situation

### 1. BACKGROUND

Every department reviewed has been assessed against the following grading standard:

% of Deemed Refusals	Comment	Grade
0-5%	Ideal compliance	A
5-10%	Substantial compliance	B
10-15%	Borderline compliance	C
15-20%	Below standard compliance	D
More than 20%	Red alert	F

This report reviews Transport Canada's (TC) progress to obtain ideal compliance with the time requirements of the *Access to Information Act*, since the previous report. In addition, this report contains information on the status of the recommendations made in the Status Report of January 2005.

### 2. COMPLIANCE HISTORY

In early 2000, the Office of the Information Commissioner issued a Report Card on Transport Canada's compliance with the statutory time requirements of the *Access to Information Act*. In the Report Card, the department received a red alert grade of "F" for its compliance with the statutory time requirements of the *Access to Information Act*. The grade represented a 30.6% new request to deemed-refusal ratio for access requests received from April 1 to November 30, 1999.

Some improvement was noted the following year. Between April 1 and November 30, 2000, the new request to deemed-refusal ratio was to 23.7%, but still a grade of "F".

In January 2002, a further Status Report reviewed the progress of the department to come into substantial or ideal compliance with the time requirements of the *Access to Information Act*, since the January 2001 report. To the department's credit at the time, a grade of "C" for the period April 1 to November 30, 2001, was attained. However, the grade dropped to a "D" for the fiscal year 2001-2002.

In January 2003, it was reported that Transport Canada (TC) had received a grade of "D" denoting below standard compliance with the time requirements of the *Access to Information Act*. This level of compliance slipped even further with the final statistics indicating a 29.9% ratio of deemed refusals in relation to requests received for the fiscal year 2002-2003.

In the Status Report of January 2004, the department continued to experience problems in attaining a level of substantial compliance. The new request to deemed-refusal grading remained at a “D” level, although the ratio did improve marginally to 17.2% for the period from April 1 to November 30, 2003.

In the 2005 Report Card, TC received a grade alert of “B” with a 7.2% request to deemed-refusal ratio for requests received from April 1 to November 30, 2004. This was the first year that requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were taken into consideration.

For the full fiscal year 2004-2005, TC received a grade of “B“, with a 8.9% request to deemed-refusal ratio.

### **3. CURRENT STATUS**

For this reporting period, requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were also taken into consideration. As a result, for the reporting period April 1 to November 30, 2005, the department’s request to deemed-refusal ratio was 9.2%, a grade of “B”.

During the reporting period, TC received 667 requests. This is 123 more than the previous year.

Over the last few years, the ATIP Division has worked at finding solutions in order to meet legislated timeframes. The Minister has delegated full authority under the *Access to Information Act* to the ATIP Coordinator’s position and the ATI process has been streamlined and refined. Training awareness sessions continue to be given to employees throughout the department and the ATIP advisors are being encouraged to contact requesters and keep them apprised of all developments related to their requests. Several performance reports are issued to the groups/regions as well as the ATIP Division, which increases accountabilities in the processing of ATI requests in a timely manner.

Because ATIP requests focus mainly on security issues and transportation concerns, a significant number of requests consequently are included on the “sensitive request list” adding steps to the review process (Communications, DMO, MO) and implications for on-time performance.

### **4. RECOMMENDATIONS**

Because of the factors described in this report, TC was not able to achieve ideal compliance with the time requirements of the *Access to Information Act*.

***Recommendation #1***

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**That TC attain ideal compliance and a grade of “A” by March 31, 2007.**

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***Recommendation #2***

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**The department address the staffing shortfall of the ATIP Directorate with a view to increasing resources as required.**

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## **5. STATUS OF 2005 RECOMMENDATIONS**

The following recommendations were made to support TC’s continuing efforts to process requests within the time requirements of the *Access to Information Act*:

***Previous Recommendation #1***

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**TC attain ideal compliance or at least maintain substantial compliance with time requirements of the *Access to Information Act*.**

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**Action Taken:** TC was able to meet this goal, but is faced with a staffing shortfall problem. The unit is operating with 12 person-years; however, the unit has been faced with a staff shortage since 2004. At one given time, a total of 4 employees were on extended leave at the same time, in which case the onus was on the remaining staff to carry the additional workload.

In April 2004, Marine Services was transferred to Transport Canada from Fisheries and Oceans Canada. This has increased the workload in the ATIP Division by 33% due to the requests for small vessel permits, as well as requests made under the *Navigable Waters Protection Act*.

***Previous Recommendation #2***

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**Conduct an assessment of ATIP Division’s ongoing resource needs and present a business plan to Senior Management for additional ATIP staff.**

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**Action Taken:** An integrated human resources plan has been prepared for the Executive Services Directorate.

In the short term (next year), due to employee turnovers, acting appointments, and extended leave, ATIP will need to staff up to three vacant positions on a permanent basis (PM-03/PM-04 levels) to maintain its complement of 12.7 person-years. Pending funding approval, once the new ATIP software system is implemented, a new clerk position at the CR-04 level will need to be staffed to scan documents. In the future, the ATIP Branch could have two divisions: one to provide advice on ATIP and PIAs, and the other to work only on requests.

## 6. QUESTIONNAIRE AND STATISTICAL REPORT

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i></b>			
<b>Part A: Requests carried over from the prior fiscal period.</b>		<b>Apr. 1/04 to Mar. 31/05</b>	<b>Apr. 1/05 to Nov. 30/05</b>
<b>1.</b>	Number of requests carried over:	91	87
<b>2.</b>	Requests carried over from the prior fiscal C in a deemed refusal situation on the first day of the new fiscal:	12	19
<b>Part B: New Requests C Exclude requests included in Part A.</b>		<b>Apr.1/04 to Mar. 31/05</b>	<b>Apr. 1/05 to Nov. 30/05</b>
<b>3.</b>	Number of requests received during the fiscal period:	779	667
<b>4.A</b>	How many were processed within the 30-day statutory time limit?	560	512
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit where no extension was claimed?	13	18
<b>4.C</b>	How long after the statutory time limit did it take to respond where no extension was claimed?		
	1-30 days:	8	11
	31-60 days:	2	4
	61-90 days:	0	2
	Over 91 days:	3	1
<b>5.</b>	How many were extended pursuant to section 9?	179	95
<b>6.A</b>	How many were processed within the extended time limit?	88	36
<b>6.B</b>	How many exceeded the extended time limit?	33	16
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	26	9
	31-60 days:	4	5
	61-90 days:	2	0
	Over 91 days:	1	2
<b>7.</b>	As of November 30, 2005, how many requests are in a deemed-refusal situation?	<b>17</b>	