

April 5, 2017

Dear Applicant:

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: FA/12/2017]

On December 28, 2016, the Department of Fisheries and Land Resources received your request for access to the following records/information:

"I am requesting any and all records including briefing notes and reports (excluding email correspondence) regarding the latest snow crab and shrimp assessments in Newfoundland from November 2016 to present."

Please be advised that a decision has been made by the Deputy Minister for the Department of Fisheries and Land Resources to provide partial access to the requested information. Please note that access to specific information contained within the records has been refused in accordance with Section 29(1)(a) *Policy advice or recommendations*. A full list of relevant legislation has been provided. As required by 8(2) of the Act, we have severed information that is exempt from disclosure and have provided you with as much information as possible.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal. The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309

Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-4797 or by email at rhondahickey@gov.nl.ca.

Sincerely,



Rhonda Hickey
ATIPP Coordinator

Enclosures

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

2015 cA-1.2 s8

Policy advice or recommendations

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

- (a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

- (b) the contents of a formal research report or audit report that in the opinion of the head of the public body is incomplete and in respect of which a request or order for completion has been made by the head within 65 business days of delivery of the report; or
 - (c) draft legislation or regulations.
- (2) The head of a public body shall not refuse to disclose under subsection (1)
- (a) factual material;
 - (b) a public opinion poll;
 - (c) a statistical survey;
 - (d) an appraisal;
 - (e) an environmental impact statement or similar information;
 - (f) a final report or final audit on the performance or efficiency of a public body or on any of its programs or policies;
 - (g) a consumer test report or a report of a test carried out on a product to test equipment of the public body;
 - (h) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body;
 - (i) a report on the results of field research undertaken before a policy proposal is formulated;
 - (j) a report of an external task force, committee, council or similar body that has been established to consider a matter and make a report or recommendations to a public body;
 - (k) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the head of the public body;
 - (l) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy; or
 - (m) a decision, including reasons, that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of the applicant.
- (3) Subsection (1) does not apply to information in a record that has been in existence for 15 years or more.

[2015 cA-1.2 s29](#)

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
- (b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
 - (a) a request that is disregarded under section 21 ;
 - (b) a decision respecting an extension of time under section 23 ;
 - (c) a variation of a procedure under section 24 ; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26 .
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

[2015 cA-1.2 s42](#) [Back to Top](#)

Direct appeal to Trial Division by an applicant

- 52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42 , the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
- (2) An appeal shall be commenced under subsection (1) not later than 15 business days
 - (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
 - (b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).
 - (3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the

decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).

Decision/Direction Note
Department of Fisheries, Forestry and Agrifoods

Title: Northern Shrimp Advisory Committee (NSAC) Meeting

Decision/Direction Required:

- The Department's position on the management measures for shrimp fishing area (SFA) 6 for 2017. ATIPPA Sec 29(1)(a)

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Background and Current Status:

- The Northern shrimp fishery extends from the southern Grand Banks north to the Davis Strait. Fisheries management for the shrimp resource on the northeast coast is divided into eight SFAs numbered north to south (SFA 0 to SFA 7 - see Appendix). The offshore (>100 foot) fleet has access to all eight zones, whereas the activity of the inshore (<65 foot) fleet is essentially restricted to SFAs 6 as SFA 7 was closed in 2015.
- The offshore fishery commenced in 1978 whereas the inshore fishery started in 1997 under temporary permits. The inshore access has originally considered temporary and the fishery was managed under the Last-in first-out (LIFO) policy. Inshore permits were converted to regular commercial licences in 2007 but the LIFO policy remained in place.
- In July 2016, DFO announced the elimination of the LIFO policy in favour of proportional sharing based on Ministerial Advisory Panel (MAP) recommendation. They also announced a Total Allowable Catch (TAC) of 27,825t for SFA 6, a reduction of 43 percent from 2015.
- The Federal Minister did not accept the MAP recommendations, which would provide Special Allocation holders in SFA 6 with the option to have their allocations harvested by inshore or offshore vessels. In September of 2016 Minister Crocker asked Minister Leblanc to consider allowing inshore vessels to harvest special allocations in SFA 6. This issue will also be discussed at the NSAC on March 9.
- In February 2017, Fisheries and Oceans Canada (DFO) conducted a scientific assessment on the status of shrimp in SFAs 4, 5, and 6. The DFO research survey indicated that in SFA 6 the Fishable Biomass has declined by 24.6 percent to 104,000t as compared to 2015. The Spawner (female) Biomass also declined by 26.8 percent to 65,000t. These are both the lowest in the survey time series. The percent declines in SFA 5 are similar but this stock is still considered to be healthy.
- A meeting of the NSAC is scheduled for March 9, 2017 in St. John's to discuss management measures for the 2017 fishery and seek the views of all stakeholders.

Analysis:

- The stock in SFA 6 is now considered to be in the critical zone. Under the current harvest control rule from the management plan when a stocks enters the critical zone a reduction to 10 percent exploitation rate is required. If this is applied the resulting TAC in SFA 6 would

be 10,400t in 2017 as compared to 27,825t in 2016 and result in the following allocation changes:

	Share (%)	2016 Allocation (t)	2017 Allocation (t)
Offshore	23.1	6,428	2,402
SABRI	4.5	1,252	468
Innu	1.7	473	177
Fogo	1.1	306	114
Inshore	69.6	19,366	7,238
TOTAL	100	27,825	10,399

- The loss of additional 12,000t of shrimp for the inshore would likely result in a number of plant closures from the eight which operated in 2016. ATIPPA Sec 29(1)(a)
- Should DFO allow the special allocations in SFA 6 to be harvested by inshore vessels in 2017 this would result in only an additional 582t for the inshore industry. ATIPPA Sec 29(1)(a)
- Given the shrimp fishery is Marine Stewardship Council (MSC) certified it will be necessary for any TAC decision to be guided by the science advice and existing management rules.

• [REDACTED]

Alternatives:

ATIPPA Sec 29(1)(a)

ATIPPA Sec 29(1)(a)

• [REDACTED]

• [REDACTED]

ATIPPA Sec 29(1)(a)

Prepared/Approved by: N. Pond/T. Dooley/W. Wiseman
Ministerial Approval:

February 28, 2017

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