



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-028

September 18, 2026

Department of Environment, Conservation and Climate Change

- Summary:** The Complainant made a request, pursuant to the **Access to Information and Protection of Privacy Act, 2015** to the Department of Environment, Conservation and Climate Change for records containing the province's greenhouse gas emission projections to 2050. The Department refused to disclose all the projections, citing section 35(1)(b) – that the information had monetary value – and section 35(1)(d) – that the release of the information would be a premature disclosure of a proposal or project. The Complainant disagreed and filed a complaint with this Office. The Commissioner determined that the exceptions to access do not apply and recommended release.
- Statutes Cited:** [Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 35(1)(b) and 35(1)(d)
- Cases Cited:** [Re. Greenhouse Gas Pollution Pricing Act](#), [2021] 1 S.C.R. 175
[St. John's \(City\) v. Newfoundland and Labrador \(Information and Privacy Commissioner\)](#) (2024) 224 NLSC 40
- Reports Cited** [Report A-2017-015](#); [Report A-2021-035](#); [Report A-2022-031](#); [Report A-2025-027](#)

BACKGROUND

- [1] The Complainant made a request pursuant to the **Access to Information and Protection of Privacy Act, 2015**, (the “Act”) to the Department of Environment, Conservation and Climate Change on May 25, 2026 for access to the following:

All records, including but not limited to communications, related to the government’s projections for greenhouse gas emissions by 2050. This figure (4.2 MT) was released under ATIPP file #ECC 048 2025.

- [2] The Department released some records but withheld a record that contains information on greenhouse gas emission projections from 2024 to 2050. The Department withheld this information citing both sections 35(1)(b) and 35(1)(d).
- [3] The Complainant disagreed with the Department’s decision, asserting that it did not understand how these two sections of the Act applied to the record and that this information should be released in the public interest.
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY’S POSITION

- [5] The Department’s position is that the information should not be released for a variety of reasons. Some of these reasons are that the projections are not facts; that releasing the information will undermine policy development; that the information discloses sensitive economic information; and that the value of the information to the government will be diminished if released.

COMPLAINANT’S POSITION

- [6] The Complainant asserts that given the federal government’s commitment to net-zero carbon emissions by 2050, information about Newfoundland and Labrador’s efforts to reduce

greenhouse gas emissions should be released to the public, as it is indicative of whether we are on track to meet our goals in the fight against global warming. The Complainant also notes that the Department's position contradicts the actions of other provincial departments which routinely release projections to the public on a variety of issues.

ISSUES

- [7] Did the Department properly apply section 35(1)(b) and 35(1)(d) to withhold information in the responsive record?

DECISION

Section 35(1)(b)

- [8] Section 35(1)(b) of the Act states:

35.(1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

(b) financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value.

- [9] To determine whether a record, or part thereof, can be withheld pursuant to section 31(1)(b), this Office applies a three-part test:

- Is the information financial, commercial, scientific, or technical;
- Does the information belong to a public body or to the government of the province
- Does the information have, or is it reasonably likely to have, monetary value.

All three parts of the test must be answered in the affirmative for section 35(1)(b) to apply to the information.

- [10] Section 35(1)(b) recently received judicial consideration in [St. John's \(City\) v. Newfoundland and Labrador \(Information and Privacy Commissioner\)](#) 224 NLSC 40. That

2024 case involved a Complainant seeking records showing the aggregate values paid out to settle workplace complaints and the value of a settlement regarding a contractual dispute.

[11] In rendering his decision, Justice MacDonald affirmed the three part test used as part of the section 35(1)(b) analysis, and determined that, with respect to the workplace settlements, the City could not meet part three of the test. The information, in its aggregate form, had no monetary value and could not be used by any future claimants as a starting point for negotiations.

[12] With respect to the contractual settlement amount, Justice MacDonald ruled that the amount of the settlement also held no monetary value. The settlement amount revealed only the amount, not the circumstances surrounding the dispute, the terms of the lease, what claims were covered by the settlement, and the risk both parties considered in continuing forward with the litigation. Therefore, the information could not be used as a benchmark for future settlements of legal disputes.

[13] The decision of Justice MacDonald speaks to the need for evidence that is more than speculative to support part three of the section 35(1)(b) test. The monetary value component of part three must relate to something tangible and foreseeable and not be based entirely on possible outcomes for which no evidence exists. A claim of monetary value cannot be vague and entirely hypothetical.

[14] In OIPC Report [A-2025-027](#), Memorial University sought to withhold budgetary information related to the search for the new Dean of Science. Memorial wanted to withhold the information on the basis that the release could harm the financial and resource allocations of the University, thus undermining its financial integrity and revealing competitive disadvantages. Memorial provided no compelling evidence in its submissions as to why this would be the case. Its arguments were hypothetical and not supported by examples where the release of such information produced such a result in the past or would make it more probable in the future.

[15] In this instance, the Department applied the 35(1)(b) three-part test to the greenhouse gas emission projections it refuses to release. For part one of the test, the Department asserted that the information under consideration was scientific; on this point, this Office agrees. As for part two of the test, this Office also agrees that the information belongs to the Department.

[16] At issue is part three of the test whereby the Department must show that the greenhouse gas emission projections had, or is likely to have, monetary value. The Department put forward a variety of arguments, such as:

- Disclosing detailed projections would diminish the value of the information for the government.
- Since the information is made up of specialized scientific and modeling work paid for by the province, it continues to have value to the province.
- The Department cites a statement from the bench in the Supreme Court Case [Re. Greenhouse Gas Pollution Pricing Act](#), whereby it was noted that the changes proposed by the federal government “stand to have a profound effect on provincial jurisdiction and the division of power.” The Department provided this statement in support of the position that greenhouse gas emission information is incredibly important to the economy of the province.
- Business, industry, stakeholders, investors, contractors and other organizations may use publicly available emission forecasts to inform commercial planning, investment, contractual negotiations, project development, and regulatory compliance decisions.
- The breakdown of emissions by industry in the records would disclose information about when certain industries are active or not active, which could damage the economy.
- Greenhouse gas emissions and economic activity are intrinsically linked. Greenhouse gas emission projections are fundamentally a model of known and anticipated economic activity. To support this assertion, the Department points to the decline in emissions during COVID-19 and the increase in emissions that accompanied the restarting of certain industries.

[17] Acknowledging all of the above statements, there is nothing in the information or submissions provided to this Office by the Department that suggests that greenhouse gas emission projections have monetary value. The Department's submissions present no defined projects to which this information can be attached and only vague statements about private industry using the information for hypothetical and unclear purposes. The statement asserting that certain companies would be prejudiced if the industry-specific information was released is made without evidence and cannot stand up to scrutiny.

[18] While the Department's position that greenhouse gas emissions are essentially a proxy for economic activity is interesting, such a broad assertion would require far more information and analysis than what has been provided by the Department in its submission.

[19] In considering the information requested by the Complainant, the submissions of the Department and past decisions of this Office and the courts, this Office finds that section 35(1)(b) does not apply.

Section 35(1)(d)

[20] The Department also applied section 35(1)(d) to the entirety of the information requested by the Complainant. Section 35(1)(d) states:

35.(1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

(d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to the third party.

[21] This Office has held in several decisions interpreting section 35(1)(d) that records regarding information about a project already started will, on most occasions, not be recommended for release. Report [A-2021-035](#) states:

[11] This exception addresses premature disclosure or significant loss or gain to a third party and, therefore, a public body only has to demonstrate that one or the other applies. In this case, the Department only needs to establish that the information satisfies the first part of the sentence under subsection 35(1)(d). That is, that the information in question, if disclosed, "could

reasonably be expected to result in the premature disclosure of a proposal or project.

[12] The information sought here is on its face about an ongoing project. Disclosure would reveal the parties who have made submissions, the content of their submissions and the particulars of the project as outlined by the Department. Previous reports of this Office have noted that where the information in question is about an ongoing project or matter, the early release of such information could reasonably be expected to result in the premature disclosure of a proposal or project – see for example A-2019-002 and A-2017-015 – and we find the same here. As such, early disclosure at this time can be properly described as premature.

[22] The challenge with the above-noted decision is the term “premature.” In Report [A-2021-035](#) and [A-2017-015](#) this Office’s decisions considered releasing records relating to existing projects or proposals that were in development or on the cusp of development. The concept of premature was related to something tangible or soon to be tangible. The argument about a “premature” release cannot be vague, it must relate to something. In this instance, the Department, though it has had the opportunity to do so, has not provided any tangible proposals or projects connected to the greenhouse gas emission projection; thus, as it currently stands there is nothing premature about the release of this information.

[23] In its submissions, the Department put forth the following arguments in favour of the application of section 35(1)(d) to the responsive records:

- The premature disclosure of incomplete forecasting information could diminish the value of the province’s analytical work and its ongoing use in government decision-making processes.
- Continuing to withhold this information would prevent the premature disclosure of proposals, projects, and ongoing policy development work before analysis and decision-making processes have been completed.
- Disclosure of the information would diminish the value of scientific forecasting information developed through significant government investment and expertise for use in ongoing government decision-making.

[24] There is nothing in the Department’s submission that describes any project or proposal attached to the greenhouse gas emission projections. The Department’s justification for

applying section 35(1)(d) is vague. The onus to prove that section 35(1)(d) applies to the responsive records rests with the Department and that onus has not been met. The concept of “premature” in section 35(1)(d) cannot be extended to cover instances where there are no defined proposals or projects against which the information in question can be applied.

RECOMMENDATIONS

[25] Under my authority of section 47 of the Access to Information and Protections of Privacy Act, I recommend that the Department of Environment, Conservation and Climate Change:

- Release all information currently withheld in the responsive record that contains the Newfoundland and Labrador greenhouse gas emission statistics and projections from 2005 to 2050 within 10 business days of receiving this Report.

[26] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Department of Environment, Conservation and Climate Change must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[27] Dated at St. John's, in the Province of Newfoundland and Labrador, this 18th day of September 2026.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador