

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-4711

Appeal PA25-00189

Ministry of the Environment, Conservation and Parks

August 22, 2025

Summary: On March 28, 2024, a media appellant asked the Ministry of the Environment, Conservation and Parks for records related to acoustic and emission summary and dispersion modelling reports for companies operating in Hamilton, Ontario. They appealed because the ministry did not issue a decision within the prescribed time limit. The decision-maker finds that the ministry has not issued a final decision, and the request is deemed to have been refused. The ministry is ordered to issue a final access decision by September 5, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

BACKGROUND:

[1] On March 28, 2024, the appellant asked the Ministry of the Environment, Conservation and Parks (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to:

The most recent acoustic, water, contamination and emission summary and dispersion modelling reports for the following companies' operations in Hamilton, Ontario: [list of specific private sector companies] for the timeframe of January 1, 2022 to March 28, 2024.

[2] On May 10, 2024, the appellant narrowed the scope of their request to focus only on the acoustic and emission summary and dispersion modelling reports.

[3] On June 25, 2024, the ministry issued an interim access decision, stating that although a final decision had not been made, responsive records were located and exemptions under section 21 and/or section 17 of the *Act* may apply. The interim access decision also outlined a total fee estimate of \$120 to fulfil the request and a deposit of \$60 to process the request. The interim access decision did not include a time extension.

[4] On June 25, 2024, the appellant paid the deposit.

[5] On March 17, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision to the appellant after payment of the deposit. File PA25-00189 was opened.

[6] On June 17, 2025, the IPC asked the ministry whether a final decision had been issued. The ministry advised that it was taking longer to respond to the request and that its projected date to issue the decision was by the end of July 2025.

[7] On July 21, 2025, the IPC followed up with the ministry to confirm whether it was on track to issue a final access decision by the end of July 2025. No response was received.

[8] On July 28, 2025, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final access decision by August 7, 2025. Upon receipt of the notice, the ministry advised that it would be issuing its final access decision to the appellant by August 7, 2025.

[9] On August 7, 2025, the ministry advised that they were not prepared to issue its final access decision by the due date in the notice but were prepared to issue third-party notices by the end of day. To date, I have not received a copy of any third-party notices from the ministry to confirm that such notices have been issued.

[10] Considering the above, and to ensure there are no further delays in processing this request, I will order the ministry to issue a final access decision to the appellant.

DISCUSSION:

[11] Section 26 of the Act states:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[12] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

[13] Where a time extension is not claimed and an interim decision is issued with payment of a deposit, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, subject to sections 28 and 57 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of this 30-day time limit, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[14] The appellant requested records on March 28, 2024. The ministry issued an interim access decision with a fee estimate on June 25, 2024 and the appellant paid the requested deposit on June 25, 2024. A final access decision was not issued to the appellant despite the payment of the deposit by the appellant, the filing of an appeal by the appellant and the issuance of a Notice of Expedited Inquiry by the IPC, encouraging it to do so by August 7, 2025. As no final access decision has been issued to the appellant, the ministry is deemed to have refused the access request.

[15] Therefore, I find the ministry to be in a deemed refusal situation pursuant to section 29(4) of the *Act*.

[16] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant.

ORDER:

1. Where notice to third parties is not required to be given, I order the ministry to issue a final access decision to the appellant in accordance with the *Act* without recourse to a time extension, by **September 5, 2025**.
2. Where notice to third parties is required to be given, I order the ministry to issue a final access decision to the appellant in accordance with the *Act* without recourse to a time extension, by **September 22, 2025**.

3. In order to verify compliance, the ministry shall provide me with a copy by email of the final access decisions referred to in provisions 1 and 2 by **September 5, 2025**, and **September 22, 2025**, respectively.

Original Signed by: _____

Alline Haddad
Case Lead

August 22, 2025