



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 6, 2015

Ms. Laura Russell
Attorney
Texas Parks & Wildlife Department
4200 Smith School Road
Austin, Texas 78744

OR2015-06385

Dear Ms. Russell:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 558710 (TWPD Ref. No. 2015-01-R18).

The Texas Parks and Wildlife Department (the "department") received a request for information regarding to whom specified vessels routinely sold their oysters. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we note the information we have marked is not responsive to the instant request because it does not consist of information regarding the entities to whom the specified vessels sold their oysters. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nevertheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider the department's claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Code § 552.101. Section 552.101 encompasses information protected by federal law, such as the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”). *See generally* 16 U.S.C. §§ 1801 *et seq.* The MSA requires the Secretary of Commerce to develop recommendations for the implementation of a standardized fishing vessel registration and information management system to collect and manage fisheries information on a regional basis. *See id.* § 1881(a); *see also id.* § 1853 (detailing contents of required fishery management plans). Section 1881a of the MSA provides, in part, “[a]ny information submitted to . . . a marine fisheries commission by any person in compliance with the requirements of this chapter shall be confidential and shall not be disclosed” except as provided by subsections 1881a(b)(1)(A)-(H). *Id.* § 1881a(b)(1). We note the term “marine fisheries commission” under the MSA includes the Gulf States Marine Fisheries Commission (“GSMFC”). *See id.* § 1802(28). You state the department is a member of the GSMFC. You inform us trip tickets are the method through which the department collects marine commercial landings data, which is shared with the GSMFC for the purpose of complying with the MSA. Thus, you state the requested information consists of information submitted to the department under section 1881a of the MSA. Further, you state none of the exceptions to confidentiality under section 1881a apply in this instance. *See id.* § 1881a(b)(1)(A)-(H). Based on your representations and our review, we find section 1881a is applicable to the requested information. Therefore, the department must withhold the requested information under section 552.101 of the Government Code in conjunction with section 1881a(b)(1) of title 16 of the United States Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 558710

Enc. Submitted documents

c: Requestor
(w/o enclosures)