

SCHEDULE “J” - ACCESS AND PRIVACY CODE

Technical Standards and Safety Authority

Purpose

Pursuant to the MOU, this Code establishes policy and practices regarding information in the custody and control of the Technical Standards and Safety Authority (Corporation), including:

- access to information collected by the Corporation in the administration of its authority, including personal information;
- the protection of personal information, including the protection of personal information of the Corporation employees;
- the collection, use and disclosure of personal and other information by the Corporation in the administration of its authority; and
- effective and timely procedural remedies concerning the handling of personal and other information collected by the Corporation in the administration of its authority.

Application – Regulatory Activity

This Code applies to information and personal information collected, used or disclosed by the Corporation in the course of the Corporation’s administration of the Act.

Definitions

In this Code:

access means access by an individual or an organization to a record of information in the custody of the Corporation and under the control of the Corporation.

Act means the legislation pursuant to the *Technical Standards and Safety Act, 2000* and the regulations under that Act, as amended from time to time.

administration of the Act means the regulatory responsibilities assigned under the Act and includes any activity related to an obligation under the Memorandum of Understanding.

bulk data means records requested in bulk or selective form that do not contain personal information and may have commercial value.

Enforcement activity includes investigation or law enforcement proceedings of the Corporation or other provincial and federal enforcement bodies.

MOU means Memorandum of Understanding as entered into as stipulated by the *Technical Standards and Safety Act, 2000*.

personal information means a record of information about an identifiable individual, but

does not include the name, title, business address or telephone.

public information means information other than personal information that the Corporation determines is necessary to make available to the public in order to carry out its administration of the Act.

record means any record of personal information, however recorded, in the custody and under the control of the Corporation as a result of commercial activity of the Corporation, but does not include information related to a specific installation location or incident.

1. Accountability

1.1 The Corporation is responsible for all information in its custody and under its control. The Corporation shall designate an individual or individuals who are accountable for compliance with this Code. The identity of the designated individual or individuals shall be made known upon request. The ongoing collection and processing of information may be the responsibility of other individuals within the Corporation.

1.2 The Corporation shall take reasonable steps to ensure that the personal information in its custody and under its control is accurate, complete and as up-to-date as is necessary for the purposes for which it is to be used. Where an individual provides the Corporation with an amendment to his or her personal information, it shall be recorded by the Corporation as soon as practically possible. Where third parties have access to the information in question, the Corporation shall, when appropriate, transmit amended information to those third parties.

2. Access

2.1 Subject to the exceptions set out in section 3, every person has a right of access to his or her own personal information and to public information in the custody and control of the Corporation.

2.2 Access Requirements and Procedure – Public Information

2.2.1 The Corporation shall ensure that the public has ready access to public information. The information shall be available in various mediums for review and, where practicable, be posted on the Corporation's website. The Corporation's information materials, including its website, shall provide instructions on how the public can contact The Corporation to obtain access to public information.

2.2.2 The Corporation shall support access to information by disseminating public information relevant to public safety and as is required for its administration of the Act.

2.3 Access Requirements and Procedure – Personal Information

2.3.1 Within 30 days of receipt of a written request for personal information, the Corporation shall advise an individual regarding the existence, use and disclosure of his or her personal information and, subject to the exceptions set out in section 3, provide the individual with access to his or her personal information in a generally comprehensible form.

2.3.2 The written request should include sufficient information to allow the Corporation to identify the requester and his or her personal information. The Corporation may prescribe the form such a request should take.

2.3.3 Where access is refused, the Corporation shall provide written reasons for the refusal to the requester, if the request has been made in writing. The requester may file a complaint with the Corporation concerning the access refusal, pursuant to section 7.1.

2.3.4 Before proceeding with any access request, the Corporation shall provide the requester with the approximate cost, if any, of responding to the request, and then confirm whether the requester still wishes to proceed with the access request, or whether the request is to be withdrawn.

2.3.5 Where third parties have access to personal information on an ongoing basis in accordance with section 5.2(b), any amendments to such information shall be provided to the third parties.

3. Exceptions to Access

3.1 Mandatory Exception

Subject to sections 3.4 and 3.5, the Corporation shall refuse a person access to a record where the record or part of the record would likely reveal personal information about another person, unless the other person consents to the access.

3.2 Discretionary Exceptions

Subject to sections 3.4 and 3.5, the Corporation may refuse access to a record where giving access to the record or part of the record,

- (a) violates solicitor-client privilege;
- (b) violates a legally recognized privilege other than solicitor-client privilege;
- (c) may compromise an ongoing investigation or enforcement activity;
- (d) contains bulk data, or contains aggregate accident data or other sensitive aggregate data;

- (e) provides access to information that is the substance of deliberations by one or more of the following: the Corporation Board of Directors, the Corporation Committees, including Management Committees, Board Committees, Advisory Councils and Risk Reduction Groups or other like committees established by the Corporation. The information may include, but is not restricted to agendas, minutes, policy options and analysis, advice from staff or an external consultant, and advice to government;
- (f) reveals confidential commercial, scientific, proprietary, technical, financial or labour relations information, if access to this information may result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations;
- (g) reveals advice, recommendations or information provided by an inspector, engineer, manager or other employee of the Corporation in the course of his or her employment;
- (h) provides access to information generated in the course of a formal dispute resolution process;
- (i) is a report prepared in the course of law enforcement, an inspection or an investigation;
- (j) provides access to information collected without knowledge or consent and for purposes related to an investigation as permitted by the exception under section 4.5;
- (k) may be refused under subsection 14(1) of the *Freedom of Information and Protection of Privacy Act*;
- (l) is not in the public interest or could reasonably be expected to threaten the life, health or security of an individual;
- (m) is information compiled by the Corporation or supplied to the Corporation for the purposes of risk management or risk informed decision making;
- (n) is a report supplied by a regulatory enforcement body to the Corporation in confidence; or
- (o) violates a provision of the Act.

3.3 Despite sections 3.1 and 3.2, the Corporation may release a record where not releasing the record would threaten an individual's life, health or security.

3.4 Where information that is exempted from an access request can be reasonably severed from that part of the record to which the requester can be given access, the Corporation shall sever the exempted information and provide the requester with access to the remaining part of the record.

- 3.5** Section 3.4 does not apply where the record,
- (a) is protected by solicitor-client privilege;
 - (b) was generated in the course of a formal dispute resolution process;
 - (c) was collected without knowledge or consent for purposes related to an investigation as permitted by the exception under section 4.5; or
 - (d) is a report prepared in the course of law enforcement, an inspection or an investigation.

4. Collection of Personal Information

4.1 Collection of personal information shall be limited to that which is necessary for the carrying out of the Corporation's administration of the Act or a consistent purpose.

4.2 Subject to the exception set out in section 4.5, where the Corporation collects personal information, it shall,

- (a) only collect personal information directly from the individual to whom the information relates, unless the individual authorizes another manner of collection; and
- (b) explain to the individual the purpose for collecting the personal information and, at or before the time of collection, obtain his or her consent for its collection, use and disclosure by the Corporation for that purpose.

4.3 The Corporation shall document the purpose for which personal information is collected and the Corporation shall specify whether the personal information is being collected for the purpose of administration of the Act by the Corporation.

4.4 Where the Corporation wishes to use personal information for a purpose other than that for which consent has been granted, the Corporation shall obtain consent to do so from the individual and document the new purpose.

4.5 Exceptions

Where personal information is collected for the purposes of the administration of the Act by the Corporation, the Corporation may collect the information without the knowledge or consent of the individual to whom the information relates if such collection is necessary for the administration of the Act.

5. Use and Disclosure of Personal Information

5.1 Subject to the exceptions set out under section 5.2, the Corporation shall use or disclose personal information only with the prior knowledge and consent of the individual to whom the information relates, and only for the purposes for which it was collected.

5.2 Exceptions

The Corporation may use or disclose personal information without the prior knowledge or consent of the individual, or for purposes other than those for which it was collected, if,

- (a) the information is used or disclosed for purposes related to ongoing investigation and enforcement activity;
- (b) the information is subject to an agreement the Corporation has entered into with a third party to manage or use the Corporation records on its behalf, if such agreement requires the third party to comply with this Code and have in place security safeguards comparable to those used by the Corporation; or
- (c) it is disclosed for the purpose for which it was obtained or for a consistent purpose.

6. Retention and Security of Personal Information

6.1 the Corporation shall take all reasonable steps to ensure that personal information is kept secure from loss and theft.

6.2 the Corporation shall retain personal information only as long as necessary to fulfil the purpose for which the information was collected; however, personal information that is the subject of an access request shall be retained for as long as necessary to allow the requester to exhaust any recourse under this Code.

6.3 the Corporation shall develop procedures and practices to govern the period of time personal information is retained, and the methods by which it should be destroyed, erased or made anonymous once no longer required by the Corporation.

6.4 the Corporation shall publicly post on its corporate website, under "Release of Records", said procedures and practices in the form of a Records Retention Policy.

6.5 Ongoing access to personal information under the control of the Corporation shall be restricted to the appropriate Corporation staff. The Corporation shall adopt appropriate security mechanisms to prevent the unauthorized access, disclosure, use, copying or modification of personal information under its control.

7. Complaints and Remedies

7.1 The Corporation shall develop and implement procedures and practices that establish a mechanism to deal with complaints regarding the release of records and personal information or the refusal to release such records or information to a requester. If a complaint is found to be justified, the Corporation shall take appropriate measures to rectify the problem, including where necessary,

amending its procedures and practices.

7.2 Where a requester challenges the accuracy and completeness of his or her personal information, the Corporation shall review the information and amend the information where appropriate. The Corporation shall record any challenge that has not been resolved to the satisfaction of the requester. Where third parties have access to the information in question, the Corporation shall, when appropriate, transmit any amended information and provide notice of any unresolved challenge to those third parties.

8. Fees

8.1 Public Information

Fees payable for access to public information will be in accordance with the Corporation's fee policies.

8.2 Personal Information of Requester

Personal information shall be made available to the person to whom the information relates at minimal or no cost.

8.3 Other Personal Information

Personal information that does not relate to the requester, other than bulk data, shall be made available to the requester at a cost that reflects the total cost of providing the information in accordance with the fee charged by the Corporation. The cost of providing bulk data shall be determined on a case by case basis. In determining fees, the Corporation shall make an effort to be consistent and base costs on publicly available criteria.

9. Administration

9.1 The Corporation shall implement policies and practices required to give effect to this Code, including those relating to,

- (a) the procedure for receiving and responding to requests, complaints or injuries, and the form requests and complaints should take;
- (b) advising Board members, management and staff about the Code, and providing appropriate training to ensure compliance with the Code's provisions; and
- (c) the development of brochures or other documentation describing this policy and its related procedures and practices.

10. Effective Date and Review

10.1 This Code comes into effect on its signature.

10.2 The Corporation shall make all reasonable efforts to enter into an agreement with the Archives of Ontario regarding management of records information as soon as practicable and in any event, within one year of signing this agreement subject to the agreement and cooperation of the Archives of Ontario.

10.3 The Corporation shall initiate from time to time a review of this Code and all related policy and practices.

(a) a review and analysis of any complaints received by the Corporation concerning access or privacy issues, and the manner in which those complaints were resolved;

(b) a request for input from the Corporation stakeholders and staff on the effectiveness of the Corporation access and privacy practices;

(c) an internal audit of the Corporation record management practices as they relate to paragraph 9.1(c); and

(d) an assessment of recent developments in the law applicable to access and privacy in Ontario.

**Technical Standards and Safety
Authority**

As originally signed by RJ Falconi

**Her Majesty the Queen in right of
Ontario**

**As originally signed by The Honourable
Minister Ross Romano**

Chair of the Board

Minister of Government and
Consumer Services

Date: April 25, 2022

Date: April 28, 2022