



NAV CANADA’S PRIVACY CODE

Protecting Privacy: A Goal and an Obligation

Purpose

The purpose of this policy is to establish, in an era in which technology increasingly facilitates the circulation and exchange of information, rules to govern the collection, use and disclosure of personal information in a manner that recognizes the right to privacy of individuals with respect to their personal information and the need of NAV CANADA to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Policy

NAV CANADA will collect, use, and disclose personal information in compliance with the *Personal Information Protection and Electronic Documents Act*.

It is the policy of NAV CANADA to protect the privacy of individuals with respect to personal information in its custody and control, including that of its contractors and business partners. NAV CANADA recognizes that effective systems and measures to protect such personal information are important to safeguarding the interests of its employees, customers, business partners, and other individuals who share their information with NAV CANADA.

NAV CANADA will manage its personal information holdings in a responsible and business-like manner. NAV CANADA will control the collection and accuracy of personal information, and protect that information from unauthorized use, disclosure, and retention.

Definitions

“**Personal information**” means information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee. Records of such personal information include any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine-readable record and any other documentary material, regardless of physical form or characteristics, and any copy of any of those things.¹

“**Individual**” means a person, and includes, customers, employees and contractors of NAV CANADA, but does not include such legal persons as corporations.

¹ Act, section 2 (1)

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Application

These principles and policies apply to NAV CANADA in respect of personal information that:

- (a) NAV CANADA collects, uses or discloses in the course of commercial activities;
- (b) Is about an employee of NAV CANADA, and NAV CANADA collects, uses or discloses for the operation of its business.²

The “Reasonable Person” test

NAV CANADA will seek to collect, use or disclose personal information only for purposes that a reasonable person would consider appropriate in the circumstances.³

Principle 1 – Accountability

1.1 NAV CANADA is responsible for personal information under its control and has designated the Manager, Legislated Programs, as its Privacy Coordinator, accountable for NAV CANADA’s compliance with the Act. Comments and questions regarding this Privacy Code or its administration should be forwarded to the Manager, Legislated Program.

1.2 NAV CANADA is responsible for personal information in its possession or custody, including information that has been transferred to a third party for processing. NAV CANADA uses contractual or other means to provide a comparable level of protection while a third party is processing the information.

1.3 NAV CANADA has implemented policies and practices to give effect to the principles of the Act, including:

- (a) procedures to protect personal information;
- (b) procedures to receive and respond to inquiries and complaints;
- (c) training staff and communicating information to staff about NAV CANADA’s policies and practices; and
- (d) materials to explain NAV CANADA’s policy and procedures.

² Act, section 4

³ Act, section 3.

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Principle 2 – Identifying Purposes

2.1 NAV CANADA collects personal information for the following purposes:

- To provide safe air navigation services, such as air traffic control, advisory and alerting services, requiring the collection, use, and transfer of aircraft movement data between air navigation service facilities, including those providing services in Canadian and adjacent airspace;
- To provide an appropriate supply of well-trained employees for all of its critical functions;
- To comply with its regulatory obligations with respect to safety;
- To levy and collect user charges for air navigation services;
- To recruit and train professionals for air navigation services;
- To deliver service to customers, including air carriers, business and general aviation, and airport authorities;
- To comply with obligations to provide aircraft movement data to Transport Canada, airport authorities, and customs agencies;
- For purposes of management, labour relations, and human resources, including compliance with labour agreements, shift scheduling, fact finding boards, investigation of operating irregularities, employee discipline, employee fitness for work, administration of pay, benefits, pension schemes and other related matters;
- To manage property and facilities, ensure environmental compliance, and perform risk management; and
- For all other purposes necessary to provide safe, efficient and cost effective air navigation services.

2.2 NAV CANADA identifies the purposes for which it collects personal information at or before the time of collection from an individual, and collects only that information necessary for the purposes that have been identified. This normally occurs through the completion of a paper or electronic form or other document, but it may also be done orally or by means of implied consent.

By its nature, filing a flight plan implies consent to the use of aircraft and aircraft operator identification information for air navigation system operations, including providing such data for safety and traffic management to air navigation services in adjacent air space. Employee provision of information regarding their age implies consent to use that information in respect of determining pension eligibility.

2.3 When NAV CANADA wishes to use personal information for a purpose not previously specified, it will identify the new purpose prior to such use. The individual whose personal information is at issue must consent before NAV CANADA can use the information for this new purpose, unless the use is to comply with a law under Section 7 of the Act, to collect an account for services NAV CANADA has provided to the individual, or consent is implied.

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2.4 When collecting personal information, NAV CANADA personnel will explain to individuals concerned the purposes for which the information is being collected.

Principle 3 – Consent

3.1 The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate, such as in cases of implied consent or for statutorily required purposes.

3.2 The *Personal Information Protection and Electronic Documents Act* sets out specific circumstances under which NAV CANADA may collect, use, or disclose personal information without the knowledge or consent of the individual. These include, among others, the following:

(a) **Collection**

When the collection is clearly in the interests of the individual and consent cannot be obtained in a timely way;

(b) **Use**

When NAV CANADA becomes aware during its activities of information it has reasonable grounds to believe could be useful in investigating or preventing a contravention of the laws of Canada, a province, or a foreign jurisdiction, that has been, is being, or is about to be committed, and the information is used to investigate that contravention;

When the information is used to act in an emergency that threatens the life, health or security of an individual;

When the information is publicly available and is specified by regulation.

(c) **Disclosure**

Disclosure will be made:

When required to comply with a subpoena or warrant issued or an order made by a body with jurisdiction to compel the production of information, or to comply with court rulings relating to the production of records;

When made to a government institution or part of a government institution that has requested the information, identified its lawful authority to obtain the information, and indicated that

- (i) it suspects that the information relates to national security, the defence of Canada, or the conduct of international affairs,
- (ii) the disclosure is requested for the purpose of enforcing any law of Canada, a province or a foreign jurisdiction, carrying out an investigation relating to the enforcement of any such law, or gathering intelligence for the purpose of enforcing any such law, or

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- (iii) the disclosure is requested for the purpose of administering any law of Canada or a Canadian province or territory.

When made on the initiative of NAV CANADA to an investigative body, a government institution, or a part of a government institution, and NAV CANADA

- (i) has reasonable grounds to believe that the information relates to a breach of an agreement or a contravention of the laws of Canada, a province, or a foreign jurisdiction, that has been, is being or is about to be committed, or
- (ii) suspects that the information relates to national security, the defence of Canada, or the conduct of international affairs;

When made to a person who needs the information because of an emergency that threatens the life, health, or security of an individual and, if the individual whom the information is about is alive, the organization informs that individual of the disclosure in writing without delay.

3.3 Other than in those exceptions set out earlier in this section, NAV CANADA requires individuals to consent to the collection of personal information and its subsequent use or disclosure. Typically, NAV CANADA will seek consent for the use or disclosure of information at the time of its collection. In certain circumstances, consent for the use or disclosure may be sought after the information has been collected, but before it is used (for example, when NAV CANADA wants to use information for a purpose not previously identified).

3.4 The consent principle requires “knowledge and consent.” NAV CANADA will make a reasonable effort to ensure that individuals are advised of the purposes for which their information will be used. To make the consent meaningful, the purposes will be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.

3.5 NAV CANADA will not, as a condition of the supply of a product or service, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfill the explicitly specified and legitimate purposes.

3.6 In determining the form of consent, NAV CANADA will take into account the sensitivity of the information involved.

3.7 In obtaining consent, NAV CANADA also takes into account the reasonable expectations of the individual.

3.8 NAV CANADA may seek consent in various ways, depending on the circumstances and the type of information collected. NAV CANADA will generally seek express consent when the information is likely to be considered sensitive. Implied consent will generally be appropriate when the information is less sensitive. Less sensitive information may include providing flight plan information to an Air Navigation Services provider in adjacent airspace, or passing on radar data to such an operator for the purposes of air traffic management.

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- 3.9 Individuals can give consent in many ways. For example:
 - (a) an application form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual gives consent to the collection and the specified uses;
 - (b) a checkoff box may be used to allow individuals to request that their names and addresses not be given to other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to third parties;
 - (c) consent may be given orally when information is collected over the telephone.
- 3.10 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. NAV CANADA will inform the individual of the implications of such withdrawal.
- 3.11 NAV CANADA periodically transfers personal information in its possession or custody to third parties for processing. This type of personal information transfer is not considered to be a disclosure of personal information under the legislation and, as such, consent is not required for such a transfer of information. However, in such cases, it is NAV CANADA’s practice to use contractual or other means to provide a comparable level of protection while a third party is processing the information. In some cases, the external service providers retained by NAV CANADA may be located outside of Canada. Therefore, some personal information collected by NAV CANADA may be retained in countries other than Canada where privacy laws may offer different levels of protection from those in Canada and Personal Information may be subject to access by and disclosure to law enforcement agencies in those jurisdictions.

Principle 4 – Limiting Collection

- 4.1 NAV CANADA will limit the collection of personal information to that which is necessary for the purposes that it has identified. Such information will be collected by fair and lawful means.
- 4.2 NAV CANADA will not collect personal information indiscriminately or in a misleading manner. Both the amount and the type of information collected will be limited to that which is necessary to fulfil the purposes identified. NAV CANADA will specify the type of information collected as part of its information-handling policies and practices.

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Principle 5 – Limiting Use, Disclosure, and Retention

5.1 Personal information will not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information will be retained only as long as necessary to fulfill those purposes.

5.2 NAV CANADA developed guidelines and implemented procedures for the retention of personal information, which will include minimum and maximum retention periods. NAV CANADA is subject to various legislative, regulatory, and auditing requirements concerning retention periods.⁴ Personal information that has been used to make a decision about an individual will be retained long enough to allow the individual access to the information after the decision has been made.⁵ NAV CANADA will retain personal information that is the subject of a request for as long as is necessary to allow individuals to exhaust any recourse they may have under the Act.⁶ NAV CANADA may also retain information for a reasonable amount of time after it is no longer relevant to an individual in order to comply with its objectives and statutory mandate.

5.3 Personal information no longer required to fulfil the identified purposes will be destroyed, erased, or made anonymous. NAV CANADA will develop guidelines and implement procedures to govern the destruction of personal information.

Principle 6 – Accuracy

6.1 Personal information will be collected by NAV CANADA and kept as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

6.2 The extent to which personal information shall be accurate, complete, and up-to-date will depend upon the use of the information, taking into account the interests of the individual. Information will be sufficiently accurate, complete, and up-to-date to minimize the possibility that inappropriate information could be used to make a decision about the individual.

6.3 NAV CANADA will not routinely update personal information, unless such a process is necessary to fulfil the purposes for which the information was collected.

6.4 Personal information that is used continually, including information that is disclosed to third parties, will generally be accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

⁴ Examples of such requirements would be under the *Income Tax Act* and for accident reports and expense reports. NAV CANADA retains records of air traffic services communications for a thirty-day time period in the regular course of business, barring longer retention for safety analysis or quality assessment purposes.

⁵ A one-year retention period is standard in such circumstances.

⁶ Act, s. 8(8).

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Principle 7 – Safeguards

7.1 Security safeguards are to protect personal information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. NAV CANADA will protect personal information regardless of the format in which it is held.

7.2 The nature of the safeguards vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage. A higher level of protection is used to safeguard more sensitive information.

7.3 The methods of protection used include:

- (a) physical measures, for example, locked filing cabinets and restricted access to offices;
- (b) organizational measures, for example, security clearances and limiting access on a “need-to-know” basis; and
- (c) technological measures, for example, the use of passwords and encryption.

7.4 NAV CANADA will make its employees aware of the importance of maintaining the confidentiality of personal information.

7.5 NAV CANADA will use care in disposing of or destroying personal information to prevent unauthorized parties from gaining access to the information.

Principle 8 – Openness

8.1 NAV CANADA will make readily available to individuals specific information about its policies and practices relating to the management of personal information.

8.2 NAV CANADA will be open about its policies and practices regarding the management of personal information. Individuals will be able to acquire information about its policies and practices without unreasonable effort. This information will be made available in a form that is generally understandable.

8.3 The information made available will include:

- (a) the name or title, and the address, of the person who is accountable for NAV CANADA’s policies and practices and who receives inquiries or complaints;
- (b) the means of gaining access to personal information held by NAV CANADA;
- (c) a description of the type of personal information held by NAV CANADA, including a general account of its use;
- (d) a copy of any brochures or other information that explain NAV CANADA’s policies, standards, or codes; and
- (e) what personal information is made available to related organizations (e.g., subsidiaries).

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8.4 NAV CANADA will provide information about its policies and practices in various ways, including providing on-line access through the NAV CANADA Portal, and via the Internet to customers and the public.

Principle 9 – Individual Access

9.1 Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal information and will be given access to that information subject to the exclusions set out in the *Personal Information Protection and Electronic Documents Act*. An individual will be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

9.2 NAV CANADA will not give an individual access to personal information under the circumstances laid out in section 9 of the Act, which include:

When doing so would likely reveal personal information about another individual, unless the information about another individual is severable from the record, in which case NAV CANADA will sever the information about the other individual before giving the requesting individual access.

9.3 If an individual asks NAV CANADA to inform him or her about any disclosure of information to a government institution, or to give him access to the information, NAV CANADA must notify the government institution which received the information. NAV CANADA cannot respond to the individual until the earlier of receiving notification from the government institution of any objection or the expiration of 30 days from the date of such notification.

9.4 NAV CANADA is not required to give access to personal information if

- (a) the information is protected by solicitor-client privilege;
- (b) doing so would reveal confidential proprietary or commercially sensitive information;
- (c) doing so could reasonably be expected to threaten the life or security of another individual; or
- (d) the information was generated in the course of a formal dispute resolution process.

9.5 Subject to the exceptions set out in 9.3 and 9.4 above, upon written request, NAV CANADA will:

- inform an individual whether or not it holds information about the individual;
- use its best efforts to indicate the source of this information;
- allow the individual access to this information;

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- assist any individual who informs NAV CANADA that he or she needs assistance in preparing a request for information;
- provide an account of the use that has been made or is being made of this information and of the third parties to which it has been disclosed.

NAV CANADA may choose to make sensitive medical information available through a medical practitioner.

Within the time limit for responding, NAV CANADA will inform an individual in writing of the reasons for refusing to grant access to personal information and describe what recourse exists for the individual under the Act. The appeal mechanism within NAV CANADA is to the Vice-President of Human Resources.

9.6 An individual may be required to provide sufficient information to permit NAV CANADA to provide an account of the existence, use, and disclosure of personal information. The information provided will be used only for this purpose.

9.7 In providing an account of third parties to which it has disclosed personal information about an individual, NAV CANADA will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which it has actually disclosed information about an individual, NAV CANADA will provide a list of organizations to which it may have disclosed information about the individual.

9.8 NAV CANADA will respond to an individual’s request within a reasonable time and at minimal cost to the individual. If there is a cost to the individual for access, NAV CANADA will provide the individual an estimate of the cost, and the individual must advise NAV CANADA that he or she is not withdrawing the request. NAV CANADA will make the requested information available in a form that is generally understandable, including explaining any abbreviations or codes.

NAV CANADA will respond to a request with due diligence and in any case not later than thirty days after receipt of a written request. NAV CANADA may extend the time limit for responding for a maximum of thirty days if:

- (i) meeting the time limit would unreasonably interfere with the activities of NAV CANADA, or
- (ii) the time required to undertake any consultations necessary to respond to the request would make the time limit impracticable to meet.

9.9 When an individual successfully demonstrates the inaccuracy or incompleteness of personal information, NAV CANADA will amend the information as required. Depending upon the nature of the information challenged, amendment involves the correction, deletion, or addition of information. Where appropriate, the amended information will be transmitted to third parties having access to the information in question.

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9.10 When a challenge is not resolved to the satisfaction of the individual, NAV CANADA will record the substance of the unresolved challenge.

Principle 10 – Challenging Compliance

10.1 An individual can address a challenge concerning NAV CANADA’s compliance with the above principles to the Manager, Legislated Programs, NAV CANADA’s Privacy Coordinator.

10.2 NAV CANADA has put procedures in place to receive and respond to inquiries or complaints about its policies and practices relating to the handling of personal information.

10.3 NAV CANADA will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures.

10.4 NAV CANADA will investigate all complaints. If it concludes that a complaint is justified, NAV CANADA will take appropriate measures, including, if necessary, amending its policies and practices.

Contacting NAV CANADA in respect of personal information and privacy inquiries

NAV CANADA provides the following means for contacting its Privacy Coordinator:

By e-mail: privacy.confidentialité@navcanada.ca

In writing: Misty Giroux
 Privacy Officer
 NAV CANADA
 77 Metcalfe Street
 Ottawa, Ontario
 K1P 5L6

Individuals making a request in respect of personal information holdings, or making any inquiry as to policy are reminded to be as specific as possible with respect to what information is requested.

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