

VOLUME	SECTION	SUBSECTION	PAGE
			Page 1 of 25
NAME OF PROCEDURE			
Species and Ecosystems Secure Data and Information Procedures			
<i>If this is a new procedure, see the Ecosystem Policy Committee for a new procedure number</i>			

## Ecosystems Program

### Replaces:

*Access to Sensitive Information on Species at Risk Procedures*

### Application:

This procedure applies to all staff in Natural Resource Sector Ministries who create, handle, and distribute species and ecosystems data and information.

### Staff & organizations directly affected:

1. Natural resource sector staff working with data and information under the custodianship of the Director - Ecosystems Branch, Director - Knowledge Management Branch, or Director - Fish and Wildlife Branch;
2. Natural Resource Sector Ministries
3. Clients of the Natural Resource Sector ministries;
4. Partners that have Data and Information Sharing Agreements with Ministry of Environment;
5. Front Counter BC and staff of Ministry of Technology, Innovation and Citizen Services;
6. Chief Information Officer for the Natural Resource Sector and staff;
7. NatureServe and NatureServe Canada;
8. Crown Corporations;
9. Environment Canada, Parks Canada Agency, Canadian Wildlife Service, Fisheries and Oceans Canada, Natural Resources Canada, Committee on the Status of Endangered Wildlife in Canada, and other federal government departments; and,
10. Local and regional governments.

### Policy Cross-Reference:

Volume   , Section   , Subsection    (Policy on the *Access to Secure Data and Information*)

### Other Cross-References:

*Freedom of Information and Protection of Privacy Act*, SBC 1996, c.165

Information and Privacy Handbook - Part 3 The Formal Request Process, and Part 4 Exceptions to the Right of Access.

BC Open Information and Open Data Policy [http://www.cio.gov.bc.ca/local/cio/kis/pdfs/open\\_data.pdf](http://www.cio.gov.bc.ca/local/cio/kis/pdfs/open_data.pdf)

### Purpose:

The purpose of these procedures are:

1. To outline the procedures by which the province will accept and release secure species and ecosystems data and information;
2. To outline the procedures by which the province will identify the categories of species and ecosystems data and information that are deemed secure;

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		DATE EFFECTIVE April 8, 2015	REVISION NO

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 2 of 25
NAME OF PROCEDURE			

3. To operationalize the Secure Data and Information Policy to manage species and ecosystems data and information in an open, transparent, and accountable manner;
4. To outline the procedures for identifying Species and Ecosystems Susceptible to Persecution or Harm;
5. To outline the process to revise the list of Species and Ecosystems Susceptible to Persecution or Harm;
6. To outline the process for identifying species and ecosystems data and information that need to be secured to protect government interests;
7. To identify the procedures required to manage intellectual property;
8. To outline the procedures for the distribution of secure data and information;
9. To establish the terms of reference for Data and Information Sharing Agreements (DISA) including routine disclosure, ownership and time limitations; and,
10. To outline the procedures necessary to ensure public access to policies and procedures.

**Definitions:**

**Area of Interest** – spatially defined area(s) where a party or their representative has a clearly established ownership, management responsibility or economic interest.

**CDC** – The British Columbia Conservation Data Centre and its representatives.

**CITES** - Convention on International Trade in Endangered Species.

**COSEWIC** - The Committee on the Status of Endangered Wildlife in Canada as established by section 14 of the federal *Species at Risk Act*.

**Confidentiality and Non-reproduction Agreement (Con A)** – an agreement that outlines the access, constraints, and redistribution of Secure Data and Information.

**Custodian** – the Executive Director of a provincial Ministry with custodial authority for data and information, or their designate. For the purposes of this policy these include: Executive Directors of Ecosystem Branch - MoE, Knowledge Management Branch – MoE, and Fish and Wildlife Branch - FLNRO.

**Data and Information Sharing Agreement (DISA)** – an agreement that outlines the ownership, control, access, and possession of data and information and governs its collection, provision, processing, and dissemination.

**Species and Ecosystems Data and Information Security Committee** – a committee with the responsibility of reviewing nominations for species and ecosystems data and information securement for the categories of *Species and Ecosystems Susceptible to Persecution or Harm* and *Government Interests* and making recommendations on these matters to the relevant Data Custodians.

**EIS** – Ecosystems Information Section and its representatives.

**Emergency** – an event that requires an extraordinary management response (e.g. flood, fire, oil spill, earthquake).

**External Requestor** – any person or entity that is not considered to be part of the BC government. For example, private and public companies, other levels of government, Crown corporations, and private individuals.

**Federal or Provincial Statute** – a Bill (proposed law) that has passed in the Legislative Assembly (Provincial) or Parliament of Canada (Federal) and receives Royal Assent and is thereby enacted, becoming an Act (statute) or law.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 3 of 25
NAME OF PROCEDURE			

**IUCN** – International Union for the Conservation of Nature.

**Internal Requestor** – an individual or agency that is part of the BC Government.

**Need-to-Know** – a party has a demonstrated Need-to-Know if they pass the test(s) in the Criteria for Assessing Secure Data and Information Requests in the *Species and Ecosystems Data and Information Security Procedures* set out in the Procedures Section below.

**Open Information and Open Data Policy** – government policy to increase the accessibility of government data and information, improve the transparency of government decision making and improve the engagement with BC citizens in policy and decision making discussions. Among other things this policy directs that data and information should be made available to the public in open, machine-readable formats, under an open data license. It also states that data and information should be made open unless there are policy or legal reasons not to do so.

**Proprietary** – for the purposes of these procedures, proprietary refers to any species or ecosystems data or information which for which access to private land has been required to collect and for which the landowner has requested be secured, or for which the data provider has maintained ownership rights

**Secure Data and Information** – for the purpose of these procedures and the associated policy, Secure Data and Information will refer to one or more of the categories defined in Part A of the policy.

**Secure Data and Information Training** – training established to ensure proper use of Species and Ecosystems Data and Information and metadata managed and provided by the province.

**Species and Ecosystems Data and Information Security Policy** – the policy document for these procedures entitled *Species and Ecosystems Data and Information Security Policy*.

**Species and Ecosystems Data and Information Security Procedures** – the procedural document for the policy entitled *Species and Ecosystems Data and Information Security Policy*.

**Time-limited** – data and information whose distribution is secured for a specified duration defined or agreed to in a Data and Information Sharing Agreement.

## Procedures:

### **Background**

In accordance with the *Species and Ecosystems Data and Information Security Policy*, provincial government staff will routinely disclose species and ecosystems data and information except those portions categorized as Secure.

These procedures cover the following:

1. Acceptance of all species and ecosystems data and information;
2. Identification of categories of species and ecosystems data and information that will be deemed secure;
3. Identification of the constitution and roles of the Species and Ecosystems Data and Information Security Committee
4. Identification of the criteria for, development of, and revision to the list of Species and Ecosystems Susceptible to Persecution or Harm;

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 4 of 25
NAME OF PROCEDURE			

## Ecosystems Program

5. Identification of the criteria for evaluating nominations to secure species and ecosystems and information for the purpose of protecting Government Interests;
6. Identification of Proprietary interests and associated restrictions on data and information distribution including securing species and ecosystems data and information on private and First Nations lands.
7. Identification of Provincial and Federal Statutes that limit data and information distribution;
8. Display of Secure Species and Ecosystems Data and Information;
9. Release of Secure Species and Ecosystems Data and Information;
10. Emergency release of Secure Species and Ecosystems Data and Information;
11. Confidentiality and non-reproduction agreements;
12. Criteria for determining Need-to-Know;
13. Establishment of Data and Information Sharing Agreements (including routine disclosure, ownership and time limitations) and;
14. Record keeping

### 1. Acceptance of Species and Ecosystems Data and Information

- 1.1 The province will ensure that all species and ecosystems data and information submitted to corporate data systems and repositories has been submitted with the appropriate authority by requiring data and information submitters to verify this at the time of submission.
- 1.2 Data and information submission templates will contain language that clarifies the expectations and criteria by which appropriate authority is recognized. These include: necessary permits were in place; the submitter has Intellectual Property Rights or is acting as an agent for the owner of the Intellectual Property Rights; the collection and collation of the data and information did not violate any provincial or federal statutes; and that when data and information is being submitted that has been collected on private lands that has required access to those lands the submitter can demonstrate that they have the landowner's permission to submit the data.
- 1.3 Provincial government data and information submission templates (electronic and paper-based) will have a clearly indicated box that the data and information submitter must check off to verify appropriate authority. Data and information will not be accepted without this verification

### 2. Identification of Categories of Species and Ecosystems Data and Information

- 2.1 The province will designate the following categories of species and ecosystems data and information as secure:
  1. Data and information on Species and Ecosystems Susceptible to Persecution or Harm;
  2. Proprietary species and ecosystems data and information;
  3. Species and ecosystems data and information whose distribution is prohibited or restricted by Provincial and/or Federal Statute;
  4. Species and ecosystems data and information whose distribution would pose a risk to Government Interests.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 5 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- 2.2 The Ministry will mark all species and ecosystems records and documents managed in provincial government data and information systems that pertain to the above 4 categories as secure and manage their distribution in accordance with the *Species and Ecosystems Data and Information Security Procedures*.

### 3. Species and Ecosystems Data and Information Security Committee

- 3.1 The committee will consist of 2 members of regional operations staff (MFLNRO), two members of Victoria headquarters staff (MOE and MFLNRO) and 1 Data Custodian. The Ecosystems Information Section and Conservation Data Centre will act as secretariat for the Committee.
- 3.2 The committee will report to the Data Custodians for Fish and Wildlife Branch; Ecosystems Branch; and Knowledge Management Branch.
- 3.3 The committee will review nominations from government staff for species and ecosystems data and information securement for the category of Species and Ecosystems Susceptible to Persecution or Harm
- 3.4 The committee will review nominations from government staff for species and ecosystems data and information securement for the category of Government Interests

### 4. Criteria For Designating Species and Ecosystems Susceptible to Persecution or Harm

- 4.1 The province will designate species or ecosystems as Species and Ecosystems Susceptible to Persecution or Harm where disclosure of data and information of a biological or ecological nature places populations, residences of species, or occurrences of species or ecosystems at risk of persecution or harm, or interferes with their conservation or recovery.
- 4.2 The risk to species and ecosystems will be evaluated based on demonstrated or potential risk due to: legal or illegal trade in individuals, propagules (seeds, eggs, spores, gametes, ramets), or body parts and their economic value; or risk of persecution, destruction, harassment or illegal collection, or unintended harm. A submission template and criteria to facilitate evaluation of this risk are located in Appendix 1 Section A.
- 4.3 Consistent with government Open Information and Open Data policy and to ensure that as much data and information is as openly available as possible, the standard by which species or ecosystems are listed as Species and Ecosystems Susceptible to Persecution or Harm will be governed by stringent criteria.
- 4.4 The list of Species and Ecosystems Susceptible to Persecution or Harm will be recommended by the Species and Ecosystems Data and Information Security Committee (Committee) and signed off by the Data Custodians.
- 4.5 The Committee will evaluate submissions for inclusions to this list from government staff. Submissions for inclusion will use the template found in Appendix 1 Section A. This form will be made available to government staff on the government intranet site.
- 4.6 The Committee will review the existing list and evaluate new submissions every 2 years, at least 3 months prior to the posting of the revised list.
- 4.7 The Committee will respond to emergency submissions for inclusion or deletion from the existing list in a timely fashion.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 6 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- 4.8 The relevant Data Custodians will ensure that provincially managed data and information procedures are compliant with any revisions to the list within 3 months.
- 4.9 In the case where a new species or ecosystem is added to the list of Species and Ecosystems Susceptible to Persecution or Harm, all existing and future records associated with that species or ecosystem will be secured.
- 4.10 The list of Species and Ecosystems Susceptible to Persecution or Harm will be posted on government data and information portal websites.
- 4.11 Government staff and contractors with a demonstrated Need-to-Know will be provided ongoing access to secure data and information for Species and Ecosystems Susceptible to Persecution or Harm subject to a signed Confidentiality and Non-reproduction Agreement.

## 5. Identification of Proprietary Interests

- 5.1. The province will categorize requests for securing species and ecosystems data and information for proprietary interests as: Private and First Nation's lands; or as temporally secured proprietary data. This authority resides with the Data Custodian(s).
- 5.2. Unless specifically requested not to do so, the Ministry will make public all otherwise non-secure species and ecosystems data and information pertinent to private and First Nations lands.
- 5.3. The province will respond to all requests by private landowners and First Nations to secure species and ecosystems data and information pertinent to their properties.
- 5.4. Requests to secure data and information pertaining to private or First Nation's land must be made in writing (by mail or electronically) by the property title owner or the decision authority (in the case of First Nations) to the appropriate Data Custodian.
- 5.5. The province will only secure data and information on private or First Nation's lands where access to that land has been required to collect the data and information. Data and information that can be collected remotely (e.g. does not require physical access to the private land) will not be secured as proprietary.
- 5.6. Once the province has Intellectual Property Rights over data and information on private and First Nation's lands that data and information will not be available to be secured as proprietary. In the event of transfer of land ownership, the Ministry will not retro-actively secure data and information that the province has already been given permission to display and distribute by the previous land owner.
- 5.7. The province will strive in all cases to enter into Data and Information Sharing Agreements (DISA) with private landowners and First Nations requesting that data and information be secured which would outline the procedures and conditions by which such data and information are made public (if at all).
- 5.8. The province will respond to all requests by data and information holder(s)/owner(s) to secure species and ecosystems data and information. Requests must indicate the reasons for the requested security and a defined time limit or condition after which the data and information would be made public. Requests must be made in writing (by mail or electronically) by the data and information owner to the appropriate Data Custodian.
- 5.9. Species and ecosystems data and information secured due to a request by the data and information holder/owner(s) will be done so on a time limited basis and their distribution will be managed through the establishment of a DISA between the requestor(s) and the province.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 7 of 25
NAME OF PROCEDURE			

- 5.10. Any release of data and information under the terms of a DISA will be done so conditional to the requestor for that data and information signing a Confidentiality and Non-reproduction Agreement.
- 5.11. Requests for data and information secured as for these purposes will be evaluated against the terms of the DISA and under the criteria of Need-to-Know.
- 5.12. Government staff and contractors with a demonstrated Need-to-Know will be provided ongoing access to secure Proprietary Data and Information subject to a signed Confidentiality and Non-reproduction Agreement.

## 6. Provincial or Federal Statute

- 6.1. The province will be bound by respective provincial and federal statutes and will secure all data and information whose release and distribution would violate such statutes.
- 6.2. Species and ecosystems data and information secured for these purposes will only be released by the statutory authority.
- 6.3. Notwithstanding 6.2, government staff with a demonstrated Need-to-Know will be provided ongoing access to data and information secured due to provincial or federal statutes subject to a signed Confidentiality and Non-reproduction Agreement.

## 7. Identification of Government Interests

- 7.1. The province will secure any species and ecosystems data and information whose release would pose a risk to government programs and activities (e.g., legal investigations, treaty negotiations, government to government agreements).
- 7.2. The list of species and ecosystems for which data and information are secured for Government Interests will be recommended for approval by the Species and Ecosystems Data and Information Security Committee to the Data Custodians and then signed off by the appropriate Deputy Minister(s).
- 7.3. The Species and Ecosystems Data and Information Security Committee will evaluate submissions for inclusions to this list from government staff. Submissions for inclusion will use the template found in Appendix 1 Section B. This form will be made available to government staff on the government intranet site.
- 7.4. The Species and Ecosystems Data and Information Security Committee will review the existing list and evaluate new submissions every 2 years, at least 3 months prior to the posting of the revised list.
- 7.5. The Committee will respond to emergency submissions for inclusion or deletion from the existing list in a timely fashion.
- 7.6. Data and information secured for Government Interests may be done so in a time-limited manner.
- 7.7. Release of data and information secured for Government Interests will be governed by any relevant Data and Information Sharing Agreements and the Need-to-Know procedure (Section 11 and Appendix 2).
- 7.8. Government staff with a demonstrated Need-to-Know will be provided ongoing access to data and information secured for Government Interests subject to a signed Confidentiality and Non-reproduction Agreement.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 8 of 25
NAME OF PROCEDURE			

## 8. Display of Secure Species and Ecosystems Data and Information

- 8.1. The province will not display publicly nor make known any species or ecosystems data and information secured because of Provincial or Federal statute(s).
- 8.2. The province may choose to not display publicly nor make known any species or ecosystems data and information secured for Government interests.
- 8.3. The province will display data and information secured for Proprietary reasons by using a masking procedure, unless such display is prohibited as outlined within the terms of a DISA. The identity of the secured species or ecosystems being masked will not be publicly displayed unless such display is covered within the terms of a DISA.
- 8.4. The province will display data and information secured for Species and Ecosystems Susceptible to Persecution or Harm by using a masking procedure.
- 8.5. The masking procedure for secure species and ecosystems data and information will be done by offsetting the actual location of the species or ecosystems randomly within a defined minimum and maximum distance and subsequently buffering the new location by a suitable distance, thus "masking" the actual location of the element. The resultant public layer will display only the large buffered polygons with limited attributes that will include an ID number.

## 9. Release of Secure Data and Information for Species and Ecosystems Susceptible to Persecution or Harm

- 9.1. The province will routinely release secure data and information for Species and Ecosystems Susceptible to Persecution or Harm on a Need-to-Know basis (Section 12 and Appendix 2).
- 9.2. Release of this data and information will be subject to the requestor having completed an "Access to Secure Species and Ecosystems Data and Information Training Module" and having a current signed Confidentiality and Non-reproduction Agreement.
- 9.3. The province will receive and review requests for access to secure data and information on Species and Ecosystems Susceptible to Persecution or Harm submitted by requestors (Appendix 2).
- 9.4. In any case where the Need-to-Know is uncertain, the data manager processing the request will correspond and receive advice from the designated contacts in the affected regional operations.
- 9.5. Request forms will be made publicly available on government data and information portals.
- 9.6. If the requestor is unable to demonstrate a Need-to-Know or disclosure of this data and information is deemed not necessary for the conservation of the species or compliance with statutes, then the province will refuse to disclose the data and information. The requestor will be informed of and provided supporting rationale for the decision.
- 9.7. The Data Custodian(s) shall have final authority on all release of secure data and information on Species and Ecosystems Susceptible to Persecution or Harm.
- 9.8. The relevant data manager(s) will communicate the results of all requests for secure data and information on Species and Ecosystems Susceptible to Persecution or Harm to designated contacts in the affected regional operations.
- 9.9. A requestor may challenge a denial for release by mail or email to the Data Custodian(s). Receipt of the challenge will be acknowledged and forwarded to the Data Custodian(s)'s delegate who will undertake to establish whether due process was followed. The original requestor may provide supplemental information.



VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 9 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- 9.10. The province will make available challenge application forms on the government data and information portals.
- 9.11. The province may provide ongoing access to secure data and information on Species and Ecosystems Susceptible to Persecution or Harm to designated agencies subject to a DISA and Need-to-Know that describes the conditions and limitations by which this is facilitated, and subject to a signed Confidentiality and Non-reproduction Agreement
- 9.12. Government staff with a demonstrated Need-to-Know will be provided ongoing access to secure data and information on Species and Ecosystems Susceptible to Persecution or Harm subject to a signed Confidentiality and Non-reproduction Agreement.

## 10. Emergency Release of Secure Species and Ecosystems Data and Information

- 10.1. The province, under the authority of the Deputy Minister or their delegate, may release any secure species and ecosystems data and information in situations of emergency where not releasing data and information will further endanger the species or ecosystems.
- 10.2. In these circumstances these data and information will be released only to those parties with a Need-to-Know.
- 10.3. Provincial data management staff will retroactively ensure that any person's to whom secure data and information has been released in an emergency situation will sign a Confidentiality and Non-Disclosure Agreement.

## 11. Confidentiality and Non-reproduction Agreements

- 11.1. The province will provide an "Access to Secure Species and Ecosystems Data and Information Training Module".
- 11.2. Applicants (including provincial government staff) wishing to gain access to secure species and ecosystems data and information from the province must complete the above training module. Applicants (including provincial government staff) wishing to retain access to secure species and ecosystems data and information will be required to complete the "Access to Secure Species and Ecosystems Data and Information Training Module" at 3-year intervals.
- 11.3. The province will use standard Confidentiality and Non-reproduction Agreements for government staff and non-government staff (Appendix 3).
- 11.4. Confidentiality and Non-reproduction Agreements will be in effect for 3 years and the conditions outlined in these agreements apply in perpetuity.
- 11.5. The province will regularly review and notify persons who have completed the training module and signed a Confidentiality and Non-reproduction Agreement of the expiry of their agreement and/or training requirements.

## 12. Need-to-Know

The primary considerations for assessing Need-to-Know are the existence of a legitimate business or regulatory requirement to consider detailed provincially secured data and information for Species and Ecosystems Susceptible to Persecution or Harm or Government Interests in planning or decision making; a

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 10 of 25
NAME OF PROCEDURE			

high likelihood the distribution of data and information will ultimately serve species conservation; and the existence of appropriate controls to minimize risk or misuse of the data.

Need-to-Know is determined by balancing the needs of the requestor with maintaining the security of the data and information; essentially what is in the best interest of the species or ecosystem. Detailed data and information is only provided to those with a demonstrated Need-to-Know for the purposes of conservation.

- 12.1. The province will evaluate client requests for access to secure species and ecosystems data and information by establishing the client's Need-to-Know (Appendix 2).
- 12.2. The province will determine level of detail required by client based on evaluation of Need-to-Know.
- 12.3. Provincial staff processing requests for secure data and information will contact relevant regional natural resource sector staff in cases where more information may be necessary to determine whether a proposed project presents a Need-to-Know situation.

### 13. Establishment of Data and Information Sharing Agreements

- 13.1. Data and Information Sharing Agreements (DISA's) are means by which the province and specified parties (agencies, institutions, organizations and individuals) may detail their common interest in sharing data and information, the nature of that data and information, and any limitations or restrictions on the use and distribution of that data and information.
- 13.2. The province may enter into DISAs with government agencies, institutions, non-government organizations, First Nations, private landowners, and corporations and other entities as appropriate.
- 13.3. DISAs may be developed for up to a 3-year time frame and are renewable.
- 13.4. The authority to enter into a DISA on behalf of the province resides with the Data Custodian(s).
- 13.5. DISAs do not negate the requirement for a signed Confidentiality and Non-reproduction Agreement to access secure data and information.
- 13.6. DISAs may not violate the *Species and Ecosystem Data and Information Security Policy and Procedures*.
- 13.7. A standard DISA template is in Appendix 4 of these procedures.

### 14. Record Keeping

- 14.1. The province will maintain a current, unified database of records of training for the "Access to Secure Species and Ecosystems Data and Information Training Module".
- 14.2. The province will maintain a current, unified database of signed Confidentiality and Non-reproduction Agreements.
- 14.3. The province will maintain a unified database of records of all requests (including the results of the request) for access to secure data and information. Records may be hardcopy or electronic and include all correspondence. All hardcopy correspondence will be scanned and filed with electronic information in designated folders on provincial government servers.

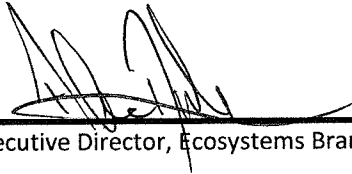
### 15. Making relevant policies and procedures publicly available

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 11 of 25
NAME OF PROCEDURE			

## Ecosystems Program

15.1. For the purposes of clarity and transparency the province will make its *Species and Ecosystem Data and Information Security Policy* and *Species and Ecosystem Data and Information Security Procedures* publicly available on the appropriate the Government data and information portals.

**Signed by the Director, Ecosystems Branch**



Executive Director, Ecosystems Branch, ENV

April 8, 2015

Date

**Signed by the Director, Knowledge Management Branch**



Executive Director, Knowledge Management Branch,  
ENV

April 7, 2015

Date

**Signed by the Director, Fish, Wildlife and Habitat Management Branch**



Executive Director, F&W Branch, FLNRO

Apr 8th, 2015

Date

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 12 of 25
NAME OF PROCEDURE			

## Ecosystems Program

### Appendix 1 Nomination Forms for Securing Species and Ecosystems Data and Information

#### Section A. Submission form and criteria for evaluating proposals for changes to the Species and Ecosystems Susceptible to Persecution or Harm list.

Date of application: \_\_\_\_\_

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Indicate whether this is a request to **Add** or **Delete** an element from the Species and Ecosystems Susceptible to Persecution or Harm list.

#### Species Taxonomy or Ecosystem Classification

Element Type (ecological community, plant, animal) \_\_\_\_\_

Species/ecosystem Common Name \_\_\_\_\_

Latin or vernacular names \_\_\_\_\_

Feature or life history stage that this application is restricted to. \_\_\_\_\_

#### Status

G Rank (include last review date) \_\_\_\_\_

S Rank (include last review date) \_\_\_\_\_

COSEWIC Status \_\_\_\_\_

IUCN Status \_\_\_\_\_

Relevant details regarding populations or occurrences of the element (distribution, abundance etc.) \_\_\_\_\_

Are there any changes to rarity, threats, or trends since the last status review date? \_\_\_\_\_

#### Existing Protection (if any please note details regarding nature of protection)

Wildlife Act Considerations \_\_\_\_\_

FRPA/OGAA \_\_\_\_\_

SARA \_\_\_\_\_

Migratory Bird Convention Act \_\_\_\_\_

CITES \_\_\_\_\_

#### Risks posed to the mapped element by making data and information public

Describe the nature of the threat posed by making data and information public. \_\_\_\_\_

Do laws enable harvest of the species or ecosystem? \_\_\_\_\_

Is there existing evidence of ecosystem destruction or species persecution, unsustainable exploitation, harassment or illegal collection? Provide details. \_\_\_\_\_

Is the species or a component species of the ecosystem propagated or bred in cultivation or captivity? \_\_\_\_\_

Is the species or a component species of the ecosystem traded, either legally or illegally? Describe the price and market for the species? \_\_\_\_\_

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 13 of 25
NAME OF PROCEDURE			

Risks posed to the mapped element by securing data and information

What are the pros and cons of securing this data in terms of the risks of public disclosure versus security?

Are any of the species or ecosystem occurrences on private land?

Relevant References

Include any relevant citations to support this application.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 14 of 25
NAME OF PROCEDURE			

## Ecosystems Program

### Section B. Submission form and criteria for evaluating proposals for securing Species and Ecosystems Data and Information for Government Interests.

Date of application:

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

#### Species Taxonomy or Ecosystem Classification

Element Type (ecological community, plant, animal)

Species/ecosystem Common Name \_\_\_\_\_

Latin or vernacular names \_\_\_\_\_

Data requested to be secured.

#### Status

G Rank (include last review date)

S Rank (include last review date)

COSEWIC Status

Relevant details regarding populations or occurrences of the element (distribution, abundance etc.)

#### Risks posed to Government Interests by making data and information public

Describe the nature of the threat posed by making data and information public.

Describe the government programs and interests that will be negatively affected by releasing data and information. Outline the consequences of those effects on government programs.

#### Risks posed to the species or ecosystem by securing data and information

What are the potential risks to this species or ecosystem of securing the requested data and information?

Describe any risks associated with FOI challenges for this data and information

#### Relevant References

Include any relevant citations to support this application.

VOLUME	SECTION	SUBSECTION	PAGE NO
			Page 15 of 25
NAME OF PROCEDURE			

## Appendix 2. Criteria for determining Need-to-Know.

- A. Requests for secure species and ecosystems data and information must include the following information:
1. Data and information that is being requested (e.g. report name, species/ecosystem name, spatial reference number).
  2. Requestor's area of interest and/or project location.
  3. Details of the project requiring the data and information (e.g. timing and details of potential activities to occur on site, nature of research).
  4. Requestor's role/responsibility relative to the requested data and information (e.g. land manager, consultant on project, researcher).
- B. Need-to-Know is evaluated based on the information supplied by the requestor. The following factors are considered when determining if provision of access to details of secured species and ecosystems information is warranted:
1. The requested data and information should be relevant to the species or ecosystems management or the specified activities. For example:
    - i. The species or ecosystem may be impacted by activities on site.
    - ii. The specified activities could be better managed by provision of the requested data and information.
    - iii. The requested data and information is required to adequately plan for or manage the species or ecosystems.
  2. AND/OR The requestor has management responsibility or a business interest in the specified area or the requestor is acting as an agent for an individual or organization with management responsibility or a business interest in the specified area. For example:
    - i. They requestor is a land manager.
    - ii. The requestor is the private landowner.
    - iii. The requestor is the land developer.
  3. AND/OR The requestor has a mandate specific to the data and information. For example:
    - i. They are contracted to write a status report or recovery plan.
    - ii. They are conducting relevant academic research.
    - iii. They are required to make recommendations or decisions regarding the management, development, or acquisition of lands or waters.
  4. AND/OR The data and information are required for identifying significant area(s) for conservation.
  5. AND/OR The data and information are required for legal enforcement or are required to be provided by legislation.
- C. BC Conservation Data Centre or Ecosystems Information Section staff will evaluate the requestor-provided information to determine if the requestor has demonstrated Need-to-Know.
1. If it is determined that the requestor has demonstrated Need to Know, the requestor must:

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 16 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- i. Complete the "Access to Secure Species and Ecosystems Data and Information Training Module", or have completed the training in the past three years; AND
  - ii. Sign the "Confidentiality and Non-reproduction Agreement" or have signed the agreement within the past 3 years.
2. The province will then release details of the secure data and information relevant to the request.
  3. The relevant data management staff will notify the regional biologist contact(s) in the Natural Resource Operations Region(s) with which the released information overlaps.
  4. If it is determined that the requestor has not demonstrated sufficient "Need-to-Know", the province will respond to the requestor with the rationale for why the request for access to secure species and ecosystems data and information was denied.
- D. If the requestor anticipates that they will require regular and ongoing access to secured Data and Information, then access to specific secured BC Geographic Warehouse layers may be considered. The requestor must:
1. Be employed within the Natural Resource Sector of the B.C. Government AND/OR the organisation for whom the requestor is employed has, or is willing to enter into a relevant Data and Information Sharing Agreement with the Province of BC.
  2. Demonstrate regular and ongoing need for the Secure Species and Ecosystems Data and Information.
  3. Complete the "Access to Secure Species and Ecosystems Data and Information Training Module", or have completed the training in the past three years; AND
  4. Sign the "Confidentiality and Non-reproduction Agreement" or have signed the agreement within the past 3 years.
  5. The province will then grant access to the requestor to specified layers in the B.C. Geographic Warehouse via the iMap application or ArcGIS, or both. Access will remain in place for the duration of the requestors need or for three years, whichever is less.



VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 17 of 25
NAME OF PROCEDURE			

## Appendix 3. Confidentiality And Non-Reproduction Agreement

### TERMS AND CONDITIONS RELATING TO

### ACCESS TO SECURE DATA AND INFORMATION ON SPECIES AND ECOSYSTEMS

#### General Information

*The Freedom of Information and Protection of Privacy Act, SBC 1996, c. 165 (the Act), provides for the disclosure of information about species and ecosystems except where such disclosure could reasonably be expected to result in damage to, or interfere with the conservation of the species or ecosystem. It also provides for refusal to disclose information harmful to the business interests of a third party or personal privacy.*

#### BETWEEN

---

Name (last name, first name, initials)

Hereinafter the Recipient

AND

THE PROVINCE OF BRITISH COLUMBIA

Hereinafter the Province

#### PART A – Recipient’s Contact Information

Business Address:

Business Telephone:

Alternate Telephone:

Email:

*Please provide the following additional information, if applicable.*

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 18 of 25
NAME OF PROCEDURE			

## Ecosystems Program

Company or Institution (include department if relevant):

Position:

Professional Organization (e.g. R.P. Bio, R.P.F, P. Ag., P. Eng.):

Member number:

**PART B - This Agreement applies to secure species and ecosystems information including, but not limited to, reports, maps and spatial files hereafter referred to as "Data and Information" provided by:**

- BC Conservation Data Centre and/or
- Ecosystems Information Section

**PART C - Agreement on Terms and Conditions of Access**

I understand and will abide by the following terms and conditions:

1. I understand that I am responsible for maintaining the security and confidentiality of all Data and Information provided under the terms of this agreement.
2. I will not duplicate or redistribute the Data and Information or any part of it.
3. Reports or any other works prepared by the Recipient using the Data and Information will not display or disclose the original Data and Information (includes but not limited to individual locations and polygons).
4. Any clarification of the Data and Information will be obtained from the Data Contact as identified in the metadata record available from the Geographic Data Discovery Service.
5. I agree to destroy all copies of the Data and Information provided by the BC Conservation Data Centre or Ecosystems Information Section once the purposes for which it was requested have been completed.
6. I understand that I am responsible for ensuring complete compliance with these terms and conditions. In the event that I become aware of a breach of any of the conditions of this Agreement, I will immediately notify the Province in writing. I understand that I may be requested by the Province to take action to remediate the breach. The Province may also take action to prevent any further disclosure of the Information obtained under this Agreement.
7. I understand that contravention of the terms and conditions of this Agreement may lead to the withdrawal of data and information access privileges and/or disciplinary complaints to the relevant professional organization.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 19 of 25
NAME OF PROCEDURE			

**Ecosystems Program**

8. I acknowledge that the Province holds moral and intellectual propriety rights for any Data and Information provided under this Agreement and that the Province is not waiving, transferring, or assigning these rights.
  
9. The Province, its servants, employees and contractors make no warranties or representations regarding the accuracy, timeliness, completeness or fitness for use of the Information. The recipient should consult the appropriate metadata records available from the Geographic Data Discovery Service for more information about limitations and appropriate usage of these datasets.

**PART D - Signatures**

The Province reserves the right to withdraw access to records without prior notice if this becomes necessary under the *Act* or Species and Ecosystems Data and Information Security Policy.

Once signed, the conditions of the Agreement apply in perpetuity. Ongoing access to Secure Data and Information is subject to completion or renewal (at 3-year intervals) of the "Access to Secure Species and Ecosystems Data and Information Training Module" and a review of the Need-to-Know on a case by case basis.

Signed on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Signature of Recipient

\_\_\_\_\_  
Signature of Data Custodian representative

\_\_\_\_\_  
Name of Data Custodian Representative

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 20 of 25
NAME OF PROCEDURE			

## Appendix 4. Data and Information Sharing Agreement (DISA) Template.

DISA template is provided as an example only.

### Data and Information Sharing Agreement

Note: Remove template version information when drafting new DISA

Template Filename: disa-template-v1-0.docx

Template Version: v1.0

Template Publication Date: November 1, 2013

**THIS AGREEMENT** dated as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

#### BETWEEN

**GENERIC ENTITY INC**, a generic entity, as represented by xxxxxx, having its office at  
Somewhere in British Columbia

(“Generic Entity”)

#### AND

**THE PROVINCE OF BRITISH COLUMBIA**, Some Ministry, as represented by Some Section, Some  
Branch, having offices at Some Government Building, Some Address, Somewhere in British  
Columbia

(“Some Section”)

#### INTENT

- A. Some Section wishes to provide Generic Entity access to Some Section Data and Information on a timely basis;
- B. Generic Entity wishes to provide Some Section with Generic Entity Data and Information; and
- C. The Parties wish to confirm their mutual understanding with respect to the sharing, use, and disclosure of their respective data and information by the other party.

The parties agree as follows:

#### ARTICLE 1 – DEFINITIONS

1.1 **Definition** - In this Agreement, unless there is something in the subject matter or context inconsistent with the following rule or unless otherwise specifically provided, the following words, phrases and expressions have the following meanings:

- (a) “**Area of Interest**” means the entirety of the Province of British Columbia for the purpose of information requests

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 21 of 25
NAME OF PROCEDURE			

- (b) **“Agreement”** means this information sharing agreement;
- (c) **“Parties”** means Generic Entity and the Some Section, and their respective successors and assigns, and **“Party”** means either one of the Parties;
- (d) **“Secure Data and Information”** means data and information in the possession of the Some Section that are not generally provided or made available to the public. Secure Data and Information is defined in the Species and Ecosystems Secure Data and Information Policy and Procedures of Ministry of Environment; and,
- (e) **“Representatives”** means Generic Entity Representatives or Some Section Representatives or both as the context requires.

## ARTICLE 2 – SOME SECTION DATA AND INFORMATION

### 2.1 Some Section Data and Information –

### 2.2 Purpose -

### 2.3 Confidentiality –

## ARTICLE 3 - GENERIC ENTITY DATA AND INFORMATION

### 3.1 Generic Entity Data and Information –

### 3.2 Purpose –

### 3.3 Confidentiality –

## ARTICLE 4 – DISCLOSURE

### 4.1 Application - This Agreement does not apply to information or data and information that

- (a) are used or disclosed in a manner consistent with the prior written authorization of the Some Section or Generic Entity as the case may be;
- (b) are lawfully disclosed to the Parties by a person who has the right to make that disclosure without violating any confidentiality obligation to either Party;
- (c) are or come into the public domain, other than through a breach of this Agreement by either the Some Section or Generic Entity; or

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 22 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- (d) either the Some Section or Generic Entity are required to disclose by law or a regulatory agency having jurisdiction.

Each Party must, to the extent that it is not legally prohibited from so doing, give the other Party prompt written notice of any required disclosure under 4.1(d).

### 4.2 Ownership -

### 4.3 Return of Information -

4.4 **Privacy Legislation** – Some Section is subject to the British Columbia *Freedom of Information and Protection of Privacy Act* and associated regulations. Obligations under this Agreement are subject to that legislation, as amended or replaced from time to time.

### 4.5 Acknowledgement - Generic Entity acknowledges that

- (a) the absence or lack of data and information provided by the Some Section for a given geographic area, or lack of current information for a given area does not categorically mean the absence of sensitive species, ecosystems, or features;
- (b) the quantity and quality of Some Section Information depend on the research and observations of many individuals and organizations other than the Some Section and, in most cases, Some Section data and information is not the result of comprehensive or site-specific field surveys;
- (c) many natural areas have never been systematically surveyed, new plant and animal species occurrences are still being recorded for many localities, and, as a result, the Some Section cannot provide a definitive statement on the presence, absence, or condition of Element Occurrences in any part of British Columbia;
- (d) Some Section data and information summarizes the existing natural heritage information known to the Some Section at the time the Some Section data and information is provided;
- (e) Some Section data and information should never be regarded as final statements on Element Occurrences or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments;
- (f) the absence of documented locations of Element Occurrences may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources; and
- (g) accuracy of Some Section data and information is time-limited as new and updated data and information is continually being added to the Some Section databases.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 23 of 25
NAME OF PROCEDURE			

**4.6 Third Party Requests for Some Section and Generic Entity Data and Information** - Generic Entity must refer to the Some Section requests from others for Some Section data and information. Some Section must refer to Generic Entity requests from others for Generic Entity data and information.

**4.7 Citations** - If Generic Entity uses Some Section data and information in the preparation of a report or other document (including maps, charts, presentation materials and other visual products), Generic Entity must acknowledge Some Section at the beginning of the report or other document using, to the extent appropriate, the following language and logos as guidelines.

<add appropriate citation standard>

**4.8 Validation of Some Section Data and Information** - Generic Entity must contact Some Section if Generic Entity requires validation or clarification of Some Section data and information.

**4.9 Validation of Generic Entity Data and Information** - The Some Section must contact Generic Entity if Some Section requires validation or clarification of Generic Entity data and information.

## ARTICLE 5 – GENERAL

**5.1 Update of Some Section Data and Information** - Whenever practicable, Generic Entity must advise the Some Section of any inaccuracies in the Some Section data and information discovered by Generic Entity.

**5.2 Review** - Generic Entity and Some Section must review this Agreement every 5 years or more frequently, if necessary, and modify it to the satisfaction of the Parties.

**5.3 Breach** - If a Party is in breach of this Agreement, the non-breaching Party may, without prejudice to any other rights or remedies it has, give the breaching Party 7 days written notice to remedy the breach. If the breaching Party fails to remedy the breach within the 7-day period, the non-breaching Party may terminate this Agreement by giving written notice of its intention to do so.

**5.4 Termination** - Either Party may, without cause, terminate this Agreement by giving the other Party written notice of not less than 15 days.

**5.5 Enforceability** - If any term of this Agreement is partially or wholly invalid or unenforceable, the remainder of this Agreement is not affected, and each remaining term is separately valid and enforceable.

**5.6 Governing Law** - This Agreement is governed by and construed in accordance with British Columbia law and applicable Canadian law and is to be treated in all respects as a British Columbia contract.

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 24 of 25
NAME OF PROCEDURE			

**5.7 Notice** - All notices, requests, demands and other communications under this Agreement must be in writing and are deemed to have been duly given if delivered by hand, sent by fax, or mailed by registered mail postage prepaid addressed to the Party concerned at the following addresses:

Address of:  
 Attention:  
 Fax Number:

Address of:  
 Attention:  
 Fax Number:

Address of:  
 Attention:  
 Fax Number:

or at another address as may from time to time be notified in writing by any of the foregoing.

**5.8 Deemed Receipt** - Any notice given under paragraph 5.7 is deemed received if delivered by hand or sent by fax (with successful transmission confirmed by the sending fax machine) upon receipt. Any notice that is mailed is deemed given and received on the fifth business day after it has been posted at any postal station in British Columbia; but if mailed, should there be at the time of mailing or between the time of mailing and actual receipt of notice, a mail strike or other such dispute which might affect the delivery of the notice by the mails, then that notice is effective when actually delivered.

**5.9 Amendment** - This Agreement may be amended or supplemented only by a written agreement signed by each Party and that agreement need not be executed under seal.

**5.10 Waiver** - The failure of a Party to insist upon the strict performance of any term of this Agreement, or to exercise any right, or remedy contained in this Agreement, is not a waiver or a relinquishment by that Party for the future of that term, right, or remedy.

**5.11 Warranty and Representation** – Each Party warrants and represents to the other that the execution and delivery of this Agreement and the consummation of the transactions contemplated in it have been duly authorized by all requisite action on the part of the Parties and that each Party has the authority to enter into this Agreement.

**5.12 Binding Agreement** - This Agreement bind and benefits each of the Parties including their respective successors and permitted assigns.

**5.13 Relationship** - Nothing in this Agreement creates any relationship of partnership, joint venture or otherwise.



# PROCEDURE MANUAL

VOLUME	SECTION	SUBSECTION	PAGE NO.
			Page 25 of 25
NAME OF PROCEDURE			

## Ecosystems Program

- 5.14 **Limit of Liability** - Neither Party is liable to the other Party in connection with any breach of this Agreement for any indirect, incidental or consequential damages, including loss of profits.
- 5.15 **Assignment** - Neither Party may assign this Agreement without the prior consent of the other Party.
- 5.16 **Execution** - This Agreement may be executed in any number of counterparts, and each executed counterpart is considered to be an original. All executed counterparts taken together constitute one agreement.
- 5.17 **Execution by Fax** - Execution by any Party of a facsimile copy of this Agreement is effective execution by that Party.

**TO EVIDENCE THEIR AGREEMENT** each of the Parties has executed this Agreement on the date appearing below.

### GENERIC ENTITY INC

By: \_\_\_\_\_

Title:

Date: \_\_\_\_\_

### MINISTRY OF ENVIRONMENT – BC CONSERVATION DATA CENTRE

By: \_\_\_\_\_

Title: Director, Ecosystems Branch

Date: \_\_\_\_\_

### Other Cross-References:

*Provides linkages to other government, program, ministry, or divisional guidance documents (e.g. if there are existing or new guidelines that relate to the procedures they should be referenced here as a summary and in the Procedure text specifically.*