



ORDER

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Children's Privacy and Copyright Issues

Purpose: This document establishes the policy for protecting the privacy of children on EPA's Public Access Web site. It concerns the collection, both online and offline, of information from children ages 13 and under, and the display of personally identifying information about children on the Web site.

It also addresses copyright issues related to children's products submitted to EPA.

Audience: Office Directors and Regional equivalents, Web managers, Web developers and contractor employees who produce EPA Web pages

Background: On October 12, 1998, the Children's Online Privacy Protection Act (COPPA) was signed into law. Subsequently, the Federal Trade Commission issued a proposed rule to implement the law. The rule became final on April 20, 2000, with Web sites given six months to come into compliance with the rule's requirements. Although the Act applied only to the private sector, OMB has directed that all Federal web sites comply with the standards set forth in the Act.

The statute and FTC rule apply to Web sites and online services directed to, or that knowingly collect information from, children under 13. To inform parents of their information practices, these sites are required to provide notice on the site, including information to parents about their policies with respect to the collection, use and disclosure of children's personal information. With certain statutory exceptions, sites will also have to obtain "verifiable parental consent" before collecting, using or disclosing personal information from children. It is important to note that COPPA applies only when a Web site operator solicits and/or collects personal information from or about children from online sources; COPPA does not apply when such information is collected offline.

EPA has several sites that seek to educate children about the environment, encourage them to become involved in environmental activities, and answer their questions. Some of these interactions require

Approval Date: 08/09/2004

Review Date: 08/09/2007

that EPA have information on the child. In these cases, the issue is whether EPA retains this information, and whether the information is in any way made accessible to others.

EPA has also developed several sites that include art work by children, which raised the additional issue of copyright. The copyright concern is who "owns" the art work and how this ownership is made known.

This policy addresses both of these issues regarding children. While this policy meets the requirements of COPPA, it is not meant solely as an articulation of COPPA requirements. It goes beyond COPPA to address other EPA practices related to privacy protection for children.

Policy:

It is EPA policy to have open access to its Web sites. No one will be barred from any feature of the public access EPA Web site for failure to provide personally identifying information.

Information Collection

- a. EPA offices will not knowingly collect identification information from or about children (age 13 and under) online, other than to answer their questions or to accompany a program-related submission, e.g., an art or essay contest. EPA offices soliciting personally identifying information from children online as part of an outreach effort, however, must provide a notice similar to the attached sample "Notice to Parents and Persons Submitting Contributions in Response to this Request," and must develop a method for verifying parental consent. Since EPA currently does not solicit this kind of information online, and it is not anticipated that EPA offices would have a need to use this permission, except on very rare occasions, there is no standard consent form.
- b. Hardcopy submission of personally identifying information should only be collected if needed and does not require parental consent.
- c. EPA routinely collects non-personally identifying information on all of its Web pages for two purposes:
 - (1) summary information about the numbers of individuals who visit our Web site and the pages those individuals visit. EPA employs industry-standard software to create summary statistics, used for assessing what information is of most and least interest, determining technical design specifications, and identifying

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system performance or problem areas. This is not personally identifying information.

(2) network monitoring for security purposes, to identify unauthorized attempts to upload or change information or otherwise cause damage. In such cases, starting with the general user information collected, these attempts may be tracked back to a specific computer with the cooperation of the Internet Service Provider.

This kind of non-personally identifying information is deleted 120 days after receipt.

Information Disclosure

- a. When EPA offices identify the work product of a child on the EPA public access Web site, only the first name, age, and home state of the child will be stated (e.g., Mike, age 7, Kentucky) unless the parent makes a hardcopy request to have additional information posted.
- b. While a link to the general EPA Privacy and Security Notice (www.epa.gov/epahome/usenotice.htm) must be published on all Region and Program Office top pages, the standard Children's Privacy Policy (see Attachment B) must appear on, or be linked from, all EPA Web sites aimed at children age 13 and under.
- c. A link to the Comments Notice of Use (www.epa.gov/epahome/use.htm) must be published on all pages seeking comments or questions from children 13 and under. Personally identifying information collected to answer a question will not be shared with any other parties, and will be deleted within 90 days of receipt, in accordance with the approved EPA records schedule.
- d. There is no restriction on the dissemination of photos of children, if they are taken in public spaces, with no identification, and are used only for editorial (not advertising) purposes. The use of pre-arranged photos, taken in a protected environment such as a school or hospital, and showing a highly-defined and recognizable image, requires a release; the release must be signed by a parent or teacher. In disseminating photos of children, consider first whether it might create a new vulnerability of unwanted attention for the child(ren).

Copyright

A child submitting any product to EPA for use retains copyright in any product he or she creates, but grants to EPA a royalty-free, nonexclusive worldwide license to make copies, distribute, make derivative works, or publicly display the work.

Roles and**Responsibilities:**

Offices of the Administrator, Assistant Administrators, General Counsel, Inspector General, Chief Financial Officer, Associate Administrators and Regional Administrators shall ensure compliance with this policy, in their areas of responsibility.

The Chief Information Officer/Assistant Administrator, Office of Environmental Information (OEI), is responsible for monitoring compliance with this policy.

Office directors are responsible for making sure that any Web pages developed by their program offices and directed at children age 13 and under comply with this policy.

Web managers and developers are responsible for creating and maintaining EPA Web sites that fully comply with this policy.

Contractors who perform work for EPA are obligated to follow this policy.

Authorities:

a. The Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501 (text available at www.ftc.gov/ogc/coppa1.pdf)

b. Children's Privacy Protection Final Rule (www.ftc.gov/os/1999/9910/64f59888.pdf)

c. OMB Memorandum 00-13, Jacob J. Lew, Director, Office of Management and Budget, "Privacy Policies and Data Collection on Federal Web Sites," June 22, 2000 (www.whitehouse.gov/OMB/memoranda/m00-13.html)

d. Letter, John T. Spotila, Administrator, OMB Office of Information and Regulatory Affairs, to Roger Baker, Chief Information Officer at the Commerce Department, September 5, 2000 (cio.gov/docs/OMBCookies2.htm)

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e. Title 17 of the United States Code. 17 U.S.C. 105 addresses the scope of copyright law. It specifically states that copyright protection under this title is not available for any work of the U.S. Government. However, the Government is not precluded from receiving and holding copyrights transferred to it by reassignment, bequest, or otherwise.

Related Documents: a. Web guide (www.epa.gov/webguide/)
b. EPA Privacy and Security Notice (www.epa.gov/epahome/usenotice.htm)
c. EPA Comments Notice of Use (www.epa.gov/epahome/use.htm)

Recertification
Date: Three years from date issued

Additional Information: For further information about this Policy, please contact Tom Maloney, 202-566-0671, Office of Information Analysis and Access, email: maloney.tom@epa.gov.

Attachment, Sample Notice to Parents and Persons Submitting Materials in Response to This Request

Attachment A: Sample “NOTICE TO PARENTS and PERSONS SUBMITTING MATERIALS in RESPONSE TO THIS REQUEST”

[Required] It is EPA policy to collect no information online about or from children age 13 and under except when it is needed to identify a submission or to answer a question. Any such instances on Web sites for children will be clearly marked, and a separate privacy notice will be posted on that Web site. Information submitted online to EPA will not be used for another purpose or shared with third parties, unless required by law, nor will personally identifying information be published on EPA’s Web site. When the activity is completed, the identifying information will be deleted within 90 days, in accordance with the approved EPA records schedule.

[Sample, for an artwork submission] As part of an outreach effort to stimulate interest in the environment, EPA is requesting interested children to submit materials, including artwork. By submitting artwork, the submitting party, i.e., child/parent/guardian, agrees and provides express permission for the Agency to post or publish the artwork on EPA external and internal Web sites or in other EPA publications, at EPA's discretion. EPA will not identify children, i.e., will not publish the full name or address. Except as provided below, EPA will publish only the first name of the child, age, and the child’s state of residence. If the child’s parent or guardian desires to have additional information posted with the artwork, then he or she should mail a written and signed hardcopy authorization requesting such publication to the address below.

[Insert Address]

Attachment B

Children's Privacy Notice

It is EPA policy to collect no information online about or from children age 13 and under except when it is needed to identify a submission or to answer a question. Any such instances on Web sites for children will be clearly marked, and a separate privacy notice will be posted on that Web site. Under no circumstances will any of the information be used for another purpose or shared with third parties, nor will personally identifying information be published on the EPA's Web site.