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CIO Transmittal No.: 08-003	Review Date: 10/2010

*Issued by the EPA Chief Information Officer,  
Pursuant to Delegation 1-19, dated 07/07/2005*

## **CHILDREN'S PRIVACY AND CHILDREN'S COPYRIGHT**

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### **1. PURPOSE**

This document establishes the policy for protecting the privacy of children on the EPA public access Web site and the EPA Intranet, specifically addressing the collection, both online and offline, of information from children under the age of 13, and the display of personally identifiable information (PII) about children on the Web site. This document also establishes policy on copyright issues related to works created by and submitted to EPA by children both online and offline.

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### **2. SCOPE AND APPLICABILITY**

This policy is applicable to the EPA public access Web site and EPA Intranet, including Web sites EPA co-sponsors or co-owns in partnerships.

For purposes of this policy, "Web site" or "Web pages" are used interchangeably and refer to the applicable Web sites above.

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### **3. AUDIENCE**

All EPA personnel and contractor staff involved with outreach and/or education programs directed at children and/or developing or approving Web pages, including Assistant Administrators, Regional Administrators, Web managers and Web developers.

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### **4. BACKGROUND**

The Children's Online Privacy Protection Act of 1998 (COPPA) and Children's Online Privacy Protection Final Rule, as amended, apply to Web sites and online services directed to, or that knowingly collect information from, children under 13. Although the Act by its own terms applies only to the private sector, OMB has directed that all Federal Web sites comply with the standards set forth in the Act. 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 (e.g. Web sites, e-mail); 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 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.

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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 and EPA. 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 including offline collection of PII.

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## 5. AUTHORITY

The Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501-6506.

Children's Privacy Protection Final Rule 64 Federal Register (FR) 59888 (November 3, 1999), as amended by 70 FR 21104 (April 22, 2005).

Code of Federal Regulations Compilation of Regulations Implementing COPPA, 16 CFR Part 312.

OMB Memorandum M-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](http://www.whitehouse.gov/OMB/memoranda/m00-13.html))

EPA Records Schedule 167 “Transitory Files”.  
(<http://www.epa.gov/records/policy/schedule/sched/167.htm>)

Title 17 of United States Code. 17 U.S.C. 105 (<http://www.copyright.gov/title17/92chap1.html#105>) addresses the scope of copyright law. Note: 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.

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## 6. POLICY

It is EPA's policy to protect the online and offline privacy of children and for children to retain copyright to products submitted to EPA.

- A. EPA offices will not knowingly collect identification information from or about children under the age of 13 online, other than to answer their questions or to accompany a program-related submission, e.g., an art or essay contest.
  - B. EPA offices soliciting PII online from children under the age of 13 as part of an outreach effort will provide a notice similar to the sample “Notice to Parents and Other Persons Submitting Contributions in Response to this Request.” (See EPA Information Guidance document entitled “Children's Privacy Notice to Parents and Other Persons”) These EPA offices will ensure that verifiable parental consent was obtained. (Refer to the definitions section and to the parental consent form in the EPA Kids Club Membership Application for an example (<http://www.epa.gov/kids/club/applicationletter.pdf>) on verifiable parental consent.)
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- C. Hardcopy submission of PII collected from children under the age of 13 will be limited to only that which is necessary to accomplish an official EPA mission, administrative function, regulatory or statutory requirement and requires parental consent.
- D. The link to the general EPA Privacy and Security Notice (<http://www.epa.gov/epafiles/usenotice.htm>) will appear on, or be linked from, all EPA Web sites aimed at children under the age of 13.
- E. PII collected from children under the age of 13 to answer a question submitted to EPA through the EPA public access Web site (e.g., the "Contact Us" link found on certain EPA Web pages) will not be shared with any other parties outside of EPA, and will be deleted within 90 days of receipt, in accordance with the approved EPA records schedule.
- F. Photos taken of children (under the age of 18) in public spaces (e.g., EPA outreach events, EPA facilities, EPA Earth Day activities) will not be disseminated if they contain or are combined with other information that may identify a child or children (name, location, or other PII). This does not apply to Clip Art or other widely-used graphics of unidentified children. The use of photos, taken in a protected environment such as a school or hospital, and showing a highly-defined and recognizable image of a child or children that identifies their name, location, or PII, requires a release; the release must be signed by a parent or guardian. In disseminating photos of children, consider first whether it might create a new vulnerability of unwanted attention for the child(ren).
- G. When EPA offices identify the work product of a child on the EPA 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 or guardian makes a hardcopy request to have additional information posted.
- H. A child submitting any product to EPA for use retains copyright in any work he or she creates. The work will only be used for the purpose for which it was submitted unless the child's parent or guardian expressly grants permission to EPA. EPA should normally request a royalty-free, nonexclusive worldwide license to make copies, distribute, make derivative works, or publicly display the work on the EPA public access Web site and EPA Intranet, or in other EPA publications, at EPA's discretion.

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## 7. RELATED DOCUMENTS

CIO 2191.0 Web Governance and Management, 09/07/2006  
(<http://intranet.epa.gov/oei/imitpolicy/policies.htm>)

CIO 2181.0 Posting Copyrighted Works on EPA Web Site, 10/25/2007  
(<http://intranet.epa.gov/oei/imitpolicy/policies.htm>)

CIO 2151.0 Privacy Policy, 09/27/2007 (<http://intranet.epa.gov/oei/imitpolicy/policies.htm>)

EPA Privacy and Security Notice ([www.epa.gov/epafiles/usenotice.htm](http://www.epa.gov/epafiles/usenotice.htm))

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.  
([http://www.whitehouse.gov/omb/inforeg/cookies\\_letter90500.html](http://www.whitehouse.gov/omb/inforeg/cookies_letter90500.html))

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## 8. ROLES AND RESPONSIBILITIES

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

Assistant Administrators, Regional Administrators, and all EPA employees and contractor employees, including but not limited to staff involved in online outreach and or education programs directed at children, as well as Web managers, Web developers and contractor employees who develop and or manage EPA Web pages are responsible for providing a notice for parental consent when needed and ensuring verifiable parental consent.

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## 9. DEFINITIONS

**Operator.** Used in the definition of verifiable parental consent. Any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained

**Personally Identifiable Information (PII).** Any information about an individual maintained by an agency, which can be used to distinguish, trace, or identify an individual's identity, including personal information which is linked or linkable to an individual.

**Verifiable parental consent.** Any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

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## 10. WAIVERS

There are no waivers from this requirement.

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## 11. RELATED PROCEDURES, STANDARDS AND GUIDANCE

EPA Web site procedures, standards and guidance are provided on the EPA Web Guide (<http://www.epa.gov/webguide/standards>).

CIO Guidance 2182-G-01.0 Children's Privacy Notice to Parents and Other Persons, 10/25/2007 (<http://intranet.epa.gov/oei/imitpolicy/policies.htm>)

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## 12. MATERIAL SUPERSEDED

EPA Order 2190.2A1 "Children's Privacy and Copyright Issues" (08/09/2004)

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## 13. ADDITIONAL INFORMATION

For further information about this policy, please contact the Policy and Program Management Branch, Office of Information Analysis and Access, in the Office of Environmental Information.

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