

EPA Classification No.: CIO 2181.0

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

POSTING COPYRIGHTED WORKS ON EPA WEB SITE

1. PURPOSE

To establish EPA policy on identifying the copyright status and the appropriate use of works (including text, sound, graphics, photographs, video, software, etc.) that might be placed on the EPA Web site and the EPA Intranet, including Web sites EPA cosponsors or co-owns in partnerships.

2. SCOPE AND APPLICABILITY

This policy applies to all new and updated works posted on the EPA Web site and the EPA Intranet, including Web sites EPA cosponsors or co-owns in partnerships (e.g., www.energystar.gov).

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

Works posted to Web pages include text, sound, graphics, photographs, video, software, etc. In addition, categories of works potentially covered by this policy include, but are not limited to: works of the U.S. Government; works created under a U.S. Government grant or other form of assistance agreement; works created under a U.S. Government contract; and works from all other sources (See Definitions Section).

3. AUDIENCE

All EPA personnel and contractor staff involved with developing or approving Web pages, including Assistant Administrators, Regional Administrators, Web managers and Web developers.

4. BACKGROUND

The explosion of information placed on the Web has made the subject of copyright, and how to properly identify the copyright status and the allowable use of a work, a challenging issue. Copyright protection is available to "original works of authorship fixed in any tangible means of expression." The U.S. copyright law grants the owner of a copyright – typically the author or publisher of a work – certain exclusive rights, including the right to copy, distribute or publicly perform or display the work and to prepare derivative works. There are a few limited exceptions to the author's exclusive rights, including the doctrine of "fair use."

In the United States, and most other countries, a work is copyrighted automatically upon creation. Additionally, except for works created under federal contract, no notice is required in the U.S. to assert copyright for works created after March 1, 1989. However, registration with the U.S. Copyright Office is required in order to file suit for copyright infringement.

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Since copyright notice is no longer required for recently created works, people often mistakenly believe that all material they find on the Web without a copyright notice is not protected. Moreover, U.S. government employees are often unaware of the rights of grantees and contractors to their copyrightable works, as well as the limitations of the government's license to those works.

Because the Web makes it easy for individuals to reproduce copyrighted material, and potentially infringe the rights of the copyright owners, EPA is establishing a policy to deal with the identification and use of material that might be placed on EPA's Web site.

5. AUTHORITY

The U.S. Copyright Act (www.copyright.gov/title17/circ92.pdf)

Federal regulations on rights under assistance agreements (40 C.F.R. Subchapter B, Parts 30 and 31)

Federal regulations on rights under federal contracts (48 C.F.R. Part 52)

6. POLICY

EPA will ensure that works posted on the EPA Web site, EPA Intranet or Web sites cosponsored or co-owned by EPA do not infringe on the rights of another's copyright.

7. RELATED DOCUMENTS

CIO 2191.0, Web Governance and Management Policy, 09/07/06
(<http://www.epa.gov/irmpoli8/ciopolicy/2191.pdf>).

Office of General Counsel information about Copyright issues: "Copyright Issues of Special Interest to EPA Employees" (<http://yosemite.epa.gov/oei/webguide.nsf/create/copyright>).

8. ROLES AND RESPONSIBILITIES

- A. Assistant and Regional Administrators and senior managers at the same level have responsibility for all content owned by their program or Region on the EPA Web site, including appropriate identification and treatment of copyrighted material.
 - B. Office of the General Counsel (OGC) is responsible for providing EPA Web page developers, individuals responsible for content (i.e., content owners), and other staff with guidance on "fair use" and copyright requirements.
 - C. The Office of Public Affairs (OPA) and the Office of Environmental Information (OEI) lead the Web Council through a National Web Content Manager and National Web Infrastructure Manager, respectively. Collaborating with the Web Council, the Web Workgroup, and other appropriate entities, OEI and OPA develop procedures, standards, and guidance for epa.gov.
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9. DEFINITIONS

"Content owner" is an EPA employee responsible for Web page content.

"Fair Use" is a doctrine that is codified in section 107 of the Copyright Act. That section has a list of the various purposes for which the reproduction of a particular work may be considered a "fair use," such as criticism, comment, news reporting, teaching, scholarship, and research (for a fuller discussion of "fair use," see Office of General Counsel information about Copyright issues: "Copyright Issues of Special Interest to EPA Employees").

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A “permission” or “license” is a grant of one or more rights from the copyright owner to another person to use a copyrighted work in a specified way. For example, in a permission or license, a copyright owner may agree to grant another person the right only to distribute the work internally or may grant more extensive rights, like the right to post the copyrighted work on the Internet.

The “Web Council” consists of a National Web Content Manager in OPA and a National Web Infrastructure Manager in OEI, with corresponding Content and Infrastructure Coordinators in each Region and program office. The Web Council also includes the Chair of the EPA Web Workgroup. The Web Council works with OPA and OEI to develop procedures, standards, and guidance for epa.gov.

The “Web Workgroup” (WWG) is the voluntary organization for EPA's Web community. Members join without a formal nomination. The Workgroup is led by an elected Chair and Steering Committee. The WWG provides feedback on proposed procedures, standards, and guidance for epa.gov.

“Web developer” or “web page developer” is an EPA employee or contractor who is responsible for placing content into the required EPA template, designing the page layout, and posting it to the server.

“Works” is a term used to refer to material that is copyrightable subject matter, such as text, sound, graphics, photographs, video, software, etc.

“Works of the U.S. Government” are works that are prepared by a federal government employee as part of the employee’s official duties. In the U.S. these works are not protected by copyright. Works from state, local or tribal governments are not included in this category and may be protected by U.S. copyright law.

“Works created under a U.S. Government grant or other form of assistance agreement” are works prepared by an assistance recipient and the recipient is entitled to assert copyright to these works; however, the U.S. Government retains a license to use the works for federal purposes.

“Works created under a U.S. Government contract” have to be evaluated on a case by case basis to determine their copyright status. Certain works created by contractors, such as published scientific or technical articles, are protected by the author’s copyright upon creation. In most other cases, however, the Contracting Officer must grant permission before a contractor may assert copyright in a work produced under the contract. Except in the case of computer software, when a contractor is permitted to assert copyright, the U.S. Government receives a broad license to use that work; however, that license does not extend permission beyond the government to the public. For computer software, however, when a contractor is permitted to assert copyright, the license to the government does not include the right to distribute the work to the public. If public dissemination is desired, the Special Works - Rights in Data clause might be used. The inclusion of this clause permits the government to require the contractor to assign the work to the government. Once the work is assigned, the government may then distribute it to the public. (For additional information see Office of General Counsel information about Copyright issues: “Copyright Issues of Special Interest to EPA Employees”.)

“Works from all other sources.” Because notice of copyright is no longer required for works created after March 1, 1989, and the current term of copyright protection is quite long, employees should assume that works from sources other than the three listed above (Works of the U.S. Government, Works created under a U.S. Government grant or other form of assistance agreement, and Works created under a U.S. Government contract) are protected by copyright unless marked otherwise.

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10. WAIVERS

There are no waivers from this policy.

11. RELATED PROCEDURES, STANDARDS AND GUIDANCE

CIO 2181-G-01.0 Posting Copyrighted Works on EPA Web Site Guidance, 10/25/07
(<http://intranet.epa.gov/oei/imitpolicy/policies.htm>)

Office of General Counsel information about Copyright issues: "Copyright Issues of Special Interest to EPA Employees" (<http://yosemite.epa.gov/oei/webguide.nsf/create/copyright>).

Related EPA policies, procedures, standards, guidance, and resources are included in the EPA Web Guide (www.epa.gov/webguide/standards).

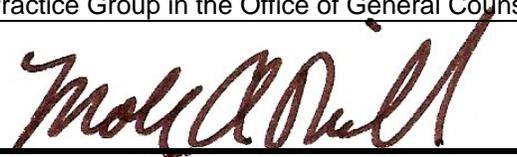
12. MATERIAL SUPERSEDED

Not applicable.

13. ADDITIONAL INFORMATION

U.S. Copyright Office (www.copyright.gov) provides technical assistance to the Congress and to Executive Branch agencies, and provides information services to the public.

For further information about this policy, please contact the Office of Environmental Information's Policy and Program Management Branch in the Office of Information Analysis and Access, or the Intellectual Property Law Practice Group in the Office of General Counsel.



*Molly A. O'Neill, Assistant Administrator
and Chief Information Officer
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