

CHAPTER 21 - POLICY ON PUBLIC ACCESS TO EPA INFORMATION

1. PURPOSE. This policy establishes the principles governing public access to and dissemination of information gathered and maintained by EPA.
2. SCOPE AND APPLICABILITY. This policy shall apply to all data and information products created, collected, and maintained by or for EPA, whether in electronic (including the Internet), paper or other format. This specifically excludes correspondence, whether electronic or paper, and records of telephone conversations. When access to information, as it is collected or maintained, is restricted by any authorized Federal or State requirements for confidentiality, privacy, national defense or enforcement sensitivity, or other authorized purpose, the information shall be processed (e.g., aggregated, summarized, or characterized) as appropriate to provide access while meeting requirements for restriction. This policy will adhere to restrictions on the release of Confidential Business Information and to legislation such as the Privacy Act and the Toxic Substances Control Act, which establish restrictions and penalties for the improper release of information.
3. BACKGROUND
 - a. An informed public is essential to meeting the Agency's mission to protect human health and the environment. Many agency priority initiatives require active public involvement in order to be successful. Effective access to environmental information facilitates public participation in environmental protection.
 - b. In order to carry out the Agency Program missions and policies, EPA is committed to conveying clear, accurate, and timely information to the public.
4. AUTHORITIES AND REFERENCES. As reflected in the following authorities and references, the Executive and Legislative branches of Government both recognize the need for federal agencies to assume an active role in providing information to the public.
 - a. *Paperwork Reduction Act (PRA) of 1980, as amended 1995*, requires agencies to provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology.
 - b. *OMB Bulletin 95-01, Establishment of Government Information Locator Service (GILS)*, December 7, 1994, is designed to help the public and agencies locate and

access information electronically throughout the U.S. government.

- c. *The White House Memorandum on the Administration of the Freedom of Information Act (FOIA)* issued October 4, 1993, states that a commitment to openness requires more than merely responding to requests from the public. Each agency has a responsibility to distribute information on its own initiative, and to enhance public access through the use of electronic information systems.
- d. *The Freedom of Information Reform Act (FOIA) of 1986* establishes what agencies must make available to the public in terms of public information, agency rules, opinions, orders, records and proceedings.
- e. *Electronic Freedom of Information Act (EFOIA) of 1996* mandates that agencies make all reasonable efforts to provide information available to requestors in the medium of their choice.
- f. *Executive Order 12862, Setting Customer Service Standards*, September 11, 1993, mandates easy accessibility of federal government information and services.
- g. *OMB Circular No. A-130, Management of Federal Information Resources*, June 25, 1993, states that every agency has a responsibility to inform the public within the context of its mission. This responsibility requires that agencies distribute information at the agency's initiative, rather than merely responding when the public requests information.
- h. *Government Performance Results Act (GPRA) of 1993* requirements are intended to improve federal program effectiveness and public accountability by promoting a focus on results, service quality and customer satisfaction.
- i. *Pollution Prevention Act (PPA) of 1990* expands SARA Title III to include the collection and dissemination of information to assist the public and industry in efforts to encourage the reduction or prevention of pollution.
- j. *The Computer Security Act of 1987* provides for government-wide computer security and for the training in security matters of persons involved in the management, operation, and use of Federal computer systems.
- k. *Information Technology Management Reform Act of 1996 (absorbed under Clinger-Cohen Act of 1996)* requires that agencies establish a process to ensure that the public has timely and equitable access to the agency's public information and regularly solicit and consider public input on the agency's

information dissemination activities.

- l. *The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, Title III of the Superfund Amendments and Reauthorization Act (SARA)* provides for the collection and public release by telecommunications and other means about the presence and release of hazardous or toxic chemicals in our nation's communities.
 - m. *44 United States Code Chapter 31 - Records Management by Federal Agencies* requires agencies to create and maintain documents and provides the basis for public records and information.
 - n. *44 United States Code Chapters 17 and 19* define the legal requirements for providing information to the public through the Federal Depository Library Program.
 - o. *EPA Directive 2200.4A* requires that any documents published or issued by EPA for the public will be developed using methodology which will achieve the highest quality products, and that agency publications destined for public use will be expeditiously approved by the agency.
 - p. *EPA Customer Service Standards for Public Access* calls for dramatically improving and changing the way EPA manages its information resources. The focus is to provide high quality environmental protection information quickly and easily accessible to the public.
 - q. *Privacy Act of 1974* restricts the government's ability to disseminate information that could invade the persona privacy of an individual. Privacy Act data cannot be released without appropriate review.
 - r. *Toxic Substances Control Act* requires the Administrator to determine if disclosure of data is necessary to protect health or the environment.
5. POLICY. Given the right of citizens to have access to government information and given the benefits of having citizens informed about their environment, it is EPA policy that all Agency information (with exceptions noted under Section 2, Scope and Applicability) shall be created, collected, maintained, and managed in a manner which will promote access to and dissemination of that information to the public. To this end:
- a. The Agency shall ensure that all information products created electronically be inventoried, stored, retrieved and, if appropriate, disseminated electronically.

Agency contract agreements, grants, and interagency agreements shall require that deliverables be submitted in both paper and electronic format.

- b. The Agency shall provide an array of information products and services targeted to the customer and determined to be cost-effective. These services may include simplified, integrated entry points for information seekers, such as an information telephone service and a single Internet address connecting to all EPA-provided information.
 - c. All new and enhanced data systems, data collections, and databases, shall be designed with consideration of the need to permit and facilitate public access to that information.
 - d. The Agency shall provide, where available, information on the uses and limits of each data product released to the public. The information provided may describe the Agency's purpose for collecting the data, the source of the data, the known quality of the data, the Agency's application of the data, and limitations or cautions in using the data. The Agency may issue a disclaimer against using the data for other than the purpose intended, because there is a high risk of misinterpretations of the information.
 - e. The Agency shall encourage and facilitate the integration of data and the exchange of information across EPA programs and with Federal and State agencies to conserve resources and to improve the usefulness of the information to the public.
 - f. The Agency shall adhere to its written, Universal Customer Service Standards, and in particular to the EPA Customer Service Standards for Public Access.
 - g. The Agency should consider, to the extent resources allow, ways to overcome barriers many citizens face in obtaining information such as lack of Internet access, language, and physical disability (hearing and sight, especially).
6. RESPONSIBILITIES. The Chief Information Officer (CIO) for EPA, is responsible for overseeing the development and implementation of applicable Government-wide and Agency information technology (IT) legislation, policies, principles, standards, guidelines, records management, investment management, architecture, re-engineering, privacy and security, staff training, sharing and dissemination of information technology and other IRM functions.
- a. The Office of Information Resources Management (OIRM) of the Office of Administration and Resources Management (OARM) shall:

- (1) Working in conjunction with the Office of Policy, Planning and Evaluation, Center for Environmental Information and Statistics, develop strategies, guidelines, programs, and communication mechanisms (including those related to the Internet) to facilitate implementation of public access to EPA information across media, functional, and program lines.
 - (2) Provide appropriate, Agency-wide technology services related to public information.
 - (3) Provide guidance and technical assistance to Program Offices, Regions, and States in implementing the requirements of this policy.
 - (4) Develop appropriate data standards, quality assurance procedures and security measures, including those related to Internet access, to enable data integration and consistency across program media.
 - (5) Promote EPA compliance with all applicable Federal statutes and regulations governing information management, security, and dissemination.
 - (6) Evaluate the effectiveness of Agency activities in achieving the goals of this policy, in part, by seeking and assessing customer feedback.
 - (7) Develop strategies for and oversee telecommunications resources that support public access.
- b. The Office of Administration and Resources Management (OARM) shall ensure that contract language includes the requirement that deliverables be submitted in both paper and electronic format when appropriate.
- c. The Office of Administration and Resources Management, Cincinnati, shall:
- (1) Provide an Agency-wide repository and dissemination point for EPA's printed and electronic publications.
 - (2) Design and manage an Agency-wide information ordering/tracking database for EPA publications, from which a catalog is produced and maintained.
- d. The Office of Policy, Planning and Evaluation shall:

- (1) Provide implementation guidance under this policy as it applies to information collection requests under the Paperwork Reduction Act and their processing and submittal to the Office of Management and Budget.
 - (2) Coordinate the implementation of electronic reporting of environmental information under regulatory programs.
 - (3) Provide to the public through the Center for Environmental Information and Statistics environmental quality data statistics and trends, and assist in: evaluating the public customer information needs; providing information to understand data quality; and providing tools for interpretation of environmental quality data.
- e. The Office of Communications, Education, and Public Affairs shall:
- (1) Apply the requirements of this policy in its functions of receiving and approving non-technical information products, and encourage and assist other Agency offices to do likewise.
 - (2) Ensure that appropriate requirements and procedures of the Agency's Product Review System are followed and revised as needed to encompass the Internet and other new formats for public information products. (See EPA Directive 2200.4A and the handbook: Developing Products for the Public [EPA 176-B-91-001] and succeeding documents.)
- f. The Office of General Counsel shall review Agency information, upon request, to determine if correctly designated as legally restricted from public access under requirements such as confidentiality, privacy, national defense, or enforcement sensitivity.
- g. Offices of the Administrator, Assistant Administrators, Associate Administrators, Inspector General, and Regional Administrators, in their areas of responsibility, shall:
- (1) Identify current and potential audiences, develop appropriate information products, respond to inquiries and disseminate information to the extent legally permissible and practicable.
 - (2) Implement appropriate data standards, quality assurance procedures, and security measures (including those related to Internet access) to ensure data integrity and to enable data integration and consistency across

program media.

- (3) Ensure that the information management practices and activities under their direction are in accord with this policy.
 - (4) Identify and describe major public information resources; make these descriptions publicly available via the Agency Government Information Locator Service (GILS); and ensure that the descriptions remain current and comprehensive.
 - (5) Deposit an electronic copy of each information product with OARM Cincinnati, for distribution, when cost effective, and meet the mandated requirements of the Federal Depository Library Program.
 - (6) Seek customer feedback to assess the effectiveness of their program office's use of this policy in assuring public access in EPA information.
 - (7) Bear the burden of determining cost effectiveness of each new information product.
 - (8) Provide full disclosure of the uses and limits of each data product released to the public.
 - (9) Share responsibility to ensure restriction requirements for confidentiality, privacy, national defense, and enforcement sensitivity.
- h. The Agency's Executive Steering Committee for Information Resources Management shall oversee public access initiatives across programs and media to ensure those initiatives are well coordinated and consistent across the Agency.

7. DEFINITIONS.

- a. "Confidentiality" refers to preventing the unauthorized or inappropriate disclosure of information. Information requiring protection from unauthorized disclosure includes confidential commercial business information, confidential Agency business information, Privacy Act information, law enforcement confidential information, procurement-sensitive information, budgetary information prior to OMB release, and information exempt from disclosure under the Freedom of Information Act.
- b. "Data or Information Product" includes a package or collection of data or

information created or arranged for the purpose of communicating that information to the public.

- c. “Enforcement Sensitivity” refers to information or records which are compiled for law enforcement purposes and whose disclosure could reasonably be expected to:
 - (1) interfere with enforcement proceedings;
 - (2) constitute an unwarranted invasion of personal privacy;
 - (3) disclose the identity of a confidential source; or
 - (4) risk circumvention of the law by revealing techniques, procedures or guidelines for investigations or prosecutions.
- d. “Federal Depository Library Program” refers to Title 44, *U.S. Code*, Chapters 17 and 19, which define the legal requirements for the dissemination of federal government information. This title is under a proposal for revision.
- e. “Information” is a communication or representation of knowledge such as facts, data or opinions, including, but not limited to, numerical, graphic or narrative forms, whether oral or maintained in any medium, including computerized data bases, paper, microform, magnetic tape, etc.
- f. “Privacy” is the right of an individual to have the information about himself/herself adequately protected to avoid the potential for substantial harm, embarrassment, inconvenience or unfairness.
- g. “Records” means all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business, and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included (44 U.S.C. 3301).
- h. “Major public information resource” describes a collection, system or access point

to significant Agency information, of high interest or major importance to the public.

- i. “Telecommunications” is the transmission and/or reception of information by telephone, telephone lines, telegraph, radio or other methods of communication over a distance. The information may be in the form of voice, pictures, text and/or encoded data.
 - j. “Agency information” for the purpose of this policy is defined as that information which is gathered or maintained by EPA or for which data that EPA accepts a stewardship role from other sources.
8. PROCEDURES AND GUIDELINES. The Chief Information Officer is responsible for issuing appropriate guidelines and procedures for providing the public access to EPA information in accordance with this policy.