
Posting Copyrighted Works on EPA Website Policy

Directive No: CIO 2181.1

*Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19*

Posting Copyrighted Works on EPA Website Policy

1. PURPOSE

To establish EPA policy on identifying the copyright status and the appropriate use of works (including but not limited to text, sound, graphics, photographs, video, and software) that may be posted on the [EPA website](#) and the EPA intranet, including websites EPA cosponsors or co-owns in partnerships.

2. SCOPE

This policy applies to all works posted by EPA personnel or contractor staff on the EPA website and the EPA intranet, websites the EPA cosponsors or co-owns in partnerships, whether newly posted or re-posted.

For purposes of this policy, “website” or “webpages” is used interchangeably and refers to the applicable websites above.

Works posted to webpages include but are not limited to text, sound, graphics, photographs, video, and software. 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 webpages, including assistant administrators, regional administrators, web managers and web developers.

4. BACKGROUND

This policy is intended to assist EPA personnel and contractor staff who develop or approve webpages with the identification of copyrighted works, and to provide guidance to those personnel and contractor staff on posting such material on EPA’s webpages and websites that EPA cosponsors or co-owns in partnerships.

Copyright protection is available to “original works of authorship fixed in any tangible means of expression.” 17 U.S.C. § 102(a). 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

Posting Copyrighted Works on EPA Website Policy

Directive No: CIO 2181.1

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 United States 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.

Accordingly, material found on the web without a copyright notice may still be copyright protected, even in the absence of a copyright notice. Moreover, grantees and contractors may own copyrights in their works, and the government’s license to use those works may be subject to limitations.

5. AUTHORITY

The U.S. [Copyright Act](#), Pub. L. No. 94-553, 90 Stat. 2541, codified, as amended, at Title 17 of the U.S. Code

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 take precautions to avoid copyright infringement claims by obtaining permission from the copyright owner prior to posting copyright-protected works on EPA’s website, the EPA intranet or websites cosponsored or co-owned by EPA, unless EPA has determined that such use qualifies for the “fair use” or another applicable exception.

7. ROLES AND RESPONSIBILITIES

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 website, including appropriate identification and treatment of copyrighted material.

Office of the General Counsel (OGC) is responsible for providing EPA with legal counsel on copyright law issues and legal doctrines such as “fair use.”

The **Office of Public Affairs (OPA)** and the **Office of Mission Support (OMS)** lead the Web Council through a National Web Content Manager and National Web Infrastructure Manager, respectively. Collaborating with the Web Council, and other appropriate entities, OMS and OPA develop web procedures, standards, and guidance for [EPA](#).

Posting Copyrighted Works on EPA Website Policy

Directive No: CIO 2181.1

8. RELATED INFORMATION

CIO 2180.2, [Web Governance and Management Policy](#), Posting Copyrighted Works on EPA Website Procedure, and related [EPA policies, procedures, standards](#), guidance, and resources are included in the [EPA Web Guide](#).

Office of General Counsel information about copyright issues: "[Copyright Issues](#) of Special Interest to EPA Employees".

9. DEFINITIONS

Content owner is an EPA employee responsible for webpage content.

Fair Use is a legal doctrine that provides for use of a copyright-protected work in certain circumstances without obtaining the copyright owner's permission. Potential application of the fair use doctrine or exception is fact-specific and evaluated on a case-by-case basis.

A **permission** or **license** is a grant of one or more rights from the copyright owner to another person or entity 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 OMS, with corresponding Content and Infrastructure Coordinators in each Region and Program Office. The Web Council works with OPA and OMS to develop web procedures, standards, and guidance for [EPA](#).

Web developer or **webpage 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. Pursuant to 17 U.S.C. § 105, such works are not protected by copyright in the United States. 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 are works prepared by a contractor for the federal government. The copyright status of such works must be evaluated on a

Posting Copyrighted Works on EPA Website Policy

Directive No: CIO 2181.1

case-by-case basis.

Works from all other sources works from sources other than the three listed above (i.e., 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). 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 all other sources are protected by copyright unless marked otherwise.

10. WAIVERS

There are no waivers from this Policy.

11. MATERIAL SUPERSEDED

CIO 2181.0 "Posting Copyrighted Works on EPA Website," October 25, 2007.

12. CONTACTS

For further information about this policy, please contact the Web Content Services Division, Office of Information Management, in the Office of Mission Support.

Vaughn Noga
Deputy Assistant Administrator for Environmental Information
and Chief Information Officer
U.S. Environmental Protection Agency