

# Clarification and Guidance on Adherence to Children's Online Privacy Protection Act

## **BACKGROUND**

On October 21, 1998, the Children's Online Privacy Protection Act (COPPA) (15 U.S.C. § 6501 et seq.) was signed into law. The main goal of COPPA is to protect the privacy of children (i.e., less than 13 years of age) using the Internet. The statute applies to Web sites and online services that are directed to, or that knowingly collect information from, children under 13. Initially, the legislation itself was not applicable to Federal agencies. However, in July 2000, the Office of Management and Budget (OMB) issued a memorandum directing Federal agencies to adhere to COPPA. Therefore, effective July 2000, Federal agencies, including NASA, were required to adhere to COPPA as if they were included in the scope of the legislation.

## **ACCOUNTABILITY**

NASA Center CIO's are responsible for ensuring the compliance of the Center Web sites with COPPA requirements. Each Center CIO must work with Web site owners and administrators to determine consistent and comprehensive methods for ensuring compliance.

## **GENERAL COMPLIANCE REQUIREMENTS**

It is expected that Web site owners attempting to comply with COPPA will have questions about what constitutes compliance with the statute. The purpose of this document is to provide NASA Web site owners and Web site administrators with the COPPA compliance requirements, as well as to provide clarification and guidance so that NASA Centers will conform to COPPA requirements in a uniform manner.

The Federal Trade Commission (FTC) has issued summary information on COPPA at <http://www.ftc.gov/opa/1999/9910/childfinal.htm>. The FTC's regulations implementing COPPA, as published in the Federal Register as a Final Rule, may be found at <http://www.ftc.gov/os/1999/9910/64fr59888.pdf>. In reviewing the Final Rule in the Federal Register, please note that pages 59,888 through 59,910 contain background information and information on disposition of comments on a draft version of the Rule. The regulations themselves begin at the bottom left of page 59,911 and continue through page 59,915. The regulations may also be found at 16 CFR Part 312.

The general requirements of COPPA and its regulations are set forth in the following section from the regulations (16 CFR § 312.3):

*“General requirements.* It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining

personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

- (a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§312.4(b));
- (b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§312.7);
- (c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§312.6);
- (d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§312.7); and
- (e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§312.8)."

See §312.5 for information on parental consent and exceptions to the requirement for parental consent.

The COPPA regulations also provide more detailed requirements and guidance for complying with the COPPA regulations' General Requirements, which must be followed by NASA.

### **ADDITIONAL NASA CLARIFICATION/GUIDANCE**

- Both COPPA and its implementing regulations contain a formal definition of "personal information" noted in the General Requirements. Refer to that definition in deciding whether a particular Web site collects "personal information" from children.
- We highly recommend that COPPA notices follow a format similar to that used at the Marshall Space Flight Center NASA KIDS site (<http://kids.msfc.nasa.gov/> and <http://kids.msfc.nasa.gov/Privacy.html>)
- While some organizations within the Agency are working on an approach that would allow parents to give consent a single time for their children to use all Agency sites covered by COPPA, that approach has not yet been finalized nor approved by legal counsel as complying with COPPA. Until such an approach has been finalized and approved, it is the responsibility of individual Web site owners to obtain parental consent as required by COPPA. (The NASA Office of the Chief Information Officer will notify the CIO community if and when the Agencywide site approach is finalized and approved.)
- COPPA applies only to information collected via online, as opposed to offline (e.g., through the mail) methods. However, independent of COPPA considerations, collecting information on individuals, whether through online or offline means, requires adherence to the Privacy Act (<http://www.usdoj.gov/04foia/privstat.htm>). Web site owners should consult with their Center Privacy Act Officer or with their Center Chief Counsel's Office for assistance in meeting Privacy Act requirements.

- Web sites that post information that was collected from children through the mail or by other offline means must display a notice to that effect, rather than confuse the public regarding our adherence to COPPA.
- **Any** NASA Web sites that are subject to COPPA but that do not yet conform with the COPPA requirements must take their noncompliant Web pages offline until they are brought into compliance.

Web site owners are encouraged to consult with their Center Chief Counsel's Office if, after reviewing all the available materials, they still have questions or concerns.