



U.S. Department of Justice

Environment and Natural Resources Division

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MEMORANDUM

To: ENRD Section Chiefs and Deputy Section Chiefs

From: Jean E. Williams *jew*
Deputy Assistant Attorney General

Re: Withdrawal of Memoranda and Policy Documents

On January 20, 2021, President Biden signed Executive Order 13,990, *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis*, 86 Fed. Reg. 7037 (Jan. 25, 2021). Section 1 of the Executive Order states:

It is . . . the policy of my Administration to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.

The Executive Order directs agencies to “immediately review and, as appropriate and consistent with applicable law, take action to address” certain regulations or other agency actions “that conflict with these important national objectives, and to immediately commence work to confront the climate crisis.”

Accordingly, the following documents are hereby withdrawn, effective immediately:

1. “Enforcement Principles and Priorities,” January 14, 2021;
2. “Additional Recommendations on Enforcement Discretion,” January 14, 2021;
3. “Guidance Regarding Newly Promulgated Rule Restricting Third-Party Payments, 28 C.F.R. § 50.28,” January 13, 2021;
4. “Equitable Mitigation in Civil Environmental Enforcement Cases,” January 12, 2021;

5. “Civil Enforcement Discretion in Certain Clean Water Act Matters Involving Prior State Proceedings,” July 27, 2020;
6. “Supplemental Environmental Projects (“SEPs”) in Civil Settlements with Private Defendants,” March 12, 2020;
7. “Using Supplemental Environmental Projects (“SEPs”) in Settlements with State and Local Governments,” August 21, 2019;
8. “Enforcement Principles and Priorities,” March 12, 2018; and
9. “Settlement Payments to Third Parties in ENRD Cases,” January 9, 2018.

Because these memoranda are inconsistent with longstanding Division policy and practice and because they may impede the full exercise of enforcement discretion in the Division’s cases, I have determined that withdrawal is appropriate pursuant to Executive Order 13,990. After further assessment, the Division may issue new guidance regarding matters addressed in the now-withdrawn documents.

The Division is also undertaking a review of Title 5 of the *Justice Manual* to determine whether any current sections in Title 5 reference the now-withdrawn memoranda and should be amended or withdrawn. *See Justice Manual* § 1-1.300.