



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3398

Subject: Revocation of Secretary's Orders Inconsistent with Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

Sec. 1 Purpose. This Order implements the review of the Department of the Interior (Department) actions directed by Executive Order (EO) 13990, entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" (January 20, 2021).

Sec. 2 Authorities. This Order is issued under the authority of section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and other applicable statutory authorities.

Sec. 3 Background. The Department's commitment to honor the Nation's trust responsibilities and conserve and manage the Nation's natural resources and cultural heritage must be guided by the best science and be protected by processes that ensure the integrity of Federal decision making. It is Department policy to listen to the science; to address societal inequities and create opportunities for the American people; to conserve and restore our land, water, and wildlife; to reduce greenhouse gas emissions; to create jobs through a growing clean energy economy; and to bolster resilience to the impacts of climate change.

Among other provisions, EO 13990 directs the Department to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions that are or may be inconsistent with, or present obstacles to, the policy set forth in that EO.

Sec. 4 Directive. The following Secretary's Orders (SO) have been found to be inconsistent with, or present obstacles to, the policy set forth in EO 13990 and are hereby revoked:

- SO 3348 – "Concerning the Federal Coal Moratorium" (March 29, 2017);
- SO 3349 – "American Energy Independence" (March 29, 2017);
- SO 3350 – "America-First Offshore Energy Strategy" (May 1, 2017);
- SO 3351 – "Strengthening the Department of the Interior's Energy Portfolio" (May 1, 2017);
- SO 3352 – "National Petroleum Reserve – Alaska" (May 31, 2017);
- SO 3354 – "Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program" (July 6, 2017);

- SO 3355 – “Streamlining National Environmental Policy Reviews and Implementation of Executive Order 13807, ‘Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects’” (August 31, 2017);
- SO 3358 – “Executive Committee for Expedited Permitting” (October 25, 2017);
- SO 3360 – “Rescinding Authorities Inconsistent with Secretary's Order 3349, “American Energy Independence”” (December 22, 2017);
- SO 3380 – “Public Notice of the Costs Associated with Developing Department of the Interior Publications and Similar Documents” (March 10, 2020);
- SO 3385 – “Enforcement Priorities” (September 14, 2020); and
- SO 3389 – “Coordinating and Clarifying National Historic Preservation Act Section 106 Reviews” (December 22, 2020).

Sec. 5 Implementation. Consistent with governing laws and regulations, I direct the following actions:

- a. The Department will review and revise as necessary all policies and instructions that implemented the above revoked SOs or that are otherwise inconsistent with the policies set forth in EO 13990.
- b. Within 60 days of the issuance of this Order, the Assistant Secretaries will submit to the Secretary a report listing each Bureau’s/Office’s policies, guidance documents, rules, or regulations that may warrant further action to be consistent with this Order and EO 13990. The report will include the Bureau’s/Office’s plan and timeline to reverse, amend or update those policies, guidance documents, rules, or regulations, and will provide recommendations regarding additional steps the Department may take to honor the Nation’s trust responsibilities and conserve and manage the Nation’s natural resources and cultural heritage consistent with this policy.

Sec. 6 Effect of the Order. This Order is intended to improve the internal management of the Department. This Order and any resulting report or recommendations are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officer or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

Sec. 7 Expiration Date. This Order is effective immediately and will remain in effect until it is amended, superseded, or revoked, whichever occurs first.



Secretary of the Interior

Date: **APR 16 2021**



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3399

Subject: Department-Wide Approach to the Climate Crisis and Restoring Transparency and Integrity to the Decision-Making Process

Sec. 1 Purpose. The Nation faces a profound climate crisis that requires the Department of the Interior (Department) to take a holistic approach to honor the Nation’s trust responsibilities; address the climate crisis; advance environmental justice; and build a clean energy future that creates good-paying jobs and powers our Nation. This Order prioritizes action on climate change and establishes a Departmental Climate Task Force. This Order also provides instruction on how science may be used in the decision-making process and clarifies Departmental policy to improve transparency to the public on the Department’s decision-making process.

Sec. 2 Authorities. This Order is issued under the authority of section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended. Other authorities for this Order include, but are not limited to, the National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4347; Executive Order (EO) 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations” (February 11, 1994); EO 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (November 6, 2000); EO 13990, entitled “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” (January 20 2021); and EO 14008, entitled “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021).

Sec. 3 Background. On January 20, 2021, President Biden issued EO 13990, entitled “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” Among other provisions, EO 13990 set out the importance of accounting for the benefits of reducing climate pollution and how “[a]n accurate social cost is essential for agencies to accurately determine the social benefits of reducing greenhouse gas emissions when conducting cost-benefit analyses of regulatory and other action.”¹

President Biden also issued EO 14008, entitled “Tackling the Climate Crisis at Home and Abroad” (January 27, 2021), recognizing the profound climate crisis facing the Nation and the need to take a governmentwide approach to the climate crisis. A National Climate Task Force was established to facilitate the organization and deployment of such an approach.² Among other provisions, EO 14008 instructed Federal agencies to revitalize the Federal Government’s sustainability efforts by using its purchasing power to support climate action and increase renewable energy production as tools to help tackle climate change.^{3,4}

¹ EO 13990, Sec. 5.

² EO 14008, Sec. 203.

³ Id. at Sec. 207.

⁴ Id. at Secs. 204 and 205.

The NEPA requires Federal agencies to consider the environmental effects of proposed major Federal actions and to receive public input on those proposed actions to improve decision making, including ensuring that agencies adequately consider the climate change-related impacts of their actions. On July 16, 2020, the Council on Environmental Quality (CEQ) published in the Federal Register its final rule to revise the NEPA regulations (2020 Rule), which went into effect on September 14, 2020.⁵ Consistent with EO 13990, CEQ has begun a review of the 2020 Rule to, among other things, determine if the rule may adversely affect environmental justice communities, climate change or environmental quality.

Sec. 4. Climate Task Force. A Departmental Climate Task Force is hereby established in the Department. The Climate Task Force shall counsel the Secretary, who is a member of the National Climate Task Force. The Deputy Secretary and the Counselor to the Secretary will serve as cochairs, and each Assistant Secretary will serve as a member. At the discretion of the cochairs, the Climate Task Force may draw on separate Bureau/Office and Assistant Secretary representation, as appropriate, to concentrate on the climate crisis.

a. The Climate Task Force will develop a strategy to reduce climate pollution; improve and increase adaptation and resilience to the impacts of climate change; address current and historic environmental injustice; protect public health; and conserve Department-managed lands. Its mission will include the following:

- (1) identifying policies and/or revisions to existing policies or practices that are needed, and making recommendations on how climate change may be prioritized in policymaking and budget processes;
- (2) supporting the development and use of the best available science to evaluate the greenhouse gas emissions and associated climate change impacts of Federal land uses as well as opportunities to increase carbon sequestration; to predict the effects of climate change on public lands and land uses; and to assess and adopt measures to increase the resilience and adaptive capacity of public lands;
- (3) implementing the review and reconsideration of Federal oil and gas leasing and permitting practices in light of the Department's broad stewardship responsibilities over the public lands and in offshore waters;
- (4) prioritizing and accelerating the permitting and appropriate environmental review of renewable energy projects, including associated transmission rights-of-way to deliver renewable energy, on Department-managed lands and the Outer Continental Shelf;
- (5) identifying policies and actions to foster economic revitalization of, and investment in, energy communities through coordination with the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization established by EO 14008, including supporting the reclamation of abandoned mine lands and the cleanup of orphan oil and gas wells;
- (6) identifying policies and action to address current and historic environmental injustice to address the disproportionately high and adverse human health,

⁵ 85 Fed. Reg. 43304-43376; 40 C.F.R. Parts 1500-1508 (July 16, 2020).

environmental, and climate-related and other cumulative impacts on disadvantaged communities through coordination with the White House Environmental Justice Interagency Council established by EO 14008;

- (7) identifying clear roles and processes for each Bureau/Office;
- (8) working with individual States, Tribes, local governments, environmental justice communities, and other interested stakeholders on these matters; and
- (9) recommending such other actions as may be necessary to fulfill the goals of this Order.

b. Program Assistant Secretaries. Program Assistant Secretaries serve as members of the Climate Task Force and are responsible for:

- (1) establishing and participating in management structures that facilitate cooperation, reporting, and accountability across agencies, including the Climate Task Force; and
- (2) working collaboratively with other Departments, States, Tribes, and local authorities to coordinate and harmonize Federal and non-Federal actions.

c. Assistant Secretary – Policy, Management and Budget. The Assistant Secretary – Policy, Management and Budget is a member of the Climate Task Force and will:

- (1) ensure that investments associated with Department-managed facilities meet the Federal standards for energy efficiency and greening applications; and
- (2) prioritize action on climate change in budget processes and in contracting and procurement policies, including the purchase and use of clean and zero-emission vehicles.

d. Bureau/Office Heads. Each Bureau/Office head is responsible for ensuring implementation of the policies and actions identified by the Climate Task Force.

Sec. 5 Utilizing the NEPA Process to Restore Transparency and Integrity to the Decision-Making Process. The NEPA process can support the Department’s policy to listen to science; to improve public health and protect the environment; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; and to prioritize environmental justice. In order to ensure the effective and efficient implementation of the Department’s policies in analysis conducted pursuant to NEPA, this order requires all Bureaus/Offices to utilize science and enhance opportunities for Tribal and environmental justice community engagement in the NEPA and decision-making process.

a. Applying NEPA. Bureaus/Offices will not apply the 2020 Rule in a manner that would change the application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect on September 14, 2020. Bureaus/Offices will continue to follow the Department’s NEPA regulations at 43 C.F.R. Part 46, Department Manual procedures (516 DM Ch. 1-15), and guidance and instruction from the Office of Environmental Policy and Compliance. If Bureaus/Offices believe that the Department’s

NEPA regulations irreconcilably conflict with the 2020 Rule, they will elevate issues to the relevant Assistant Secretary and to CEQ.

b. Consideration of greenhouse gas (GHG) emissions and climate change impacts.

Identifying important interactions between a changing climate and the environmental impacts of a proposed action in NEPA documents can help decision makers identify opportunities to reduce GHG emissions, improve environmental outcomes, and contribute to protecting communities from the climate crisis.

When considering the impact of GHG emissions from a proposed action, Bureaus/Offices should use appropriate tools, methodologies, and resources available to quantify GHG emissions and compare GHG quantities across alternatives. When quantifying GHG emissions is not possible because tools, methodologies, or data inputs are not reasonably available, Bureaus/Offices will provide a qualitative analysis and the rationale for determining that a quantitative analysis is not warranted.

The social cost of carbon (SCC), “social cost of nitrous oxide” (SCN), and “social cost of methane” (SCM)—together, the “social cost of greenhouse gases” (SC-GHG)—are estimates in dollars of the long-term damage done by these GHGs in a given year. Estimates of SC-GHG can be a useful measure to assess the climate impacts of GHG emission changes for Federal proposed actions, in addition to rulemakings. For instance, when a Bureau/Office determines that a monetized assessment of socioeconomic impacts is relevant, the SC-GHG protocol is an essential tool to quantify the costs and benefits associated with a proposed action’s GHG emissions and relevant to the choice among different alternatives being considered. The Climate Task Force will work in coordination with representatives on the Interagency Working Group on the Social Cost of Greenhouse Gases as additional guidance is developed regarding the application of SC-GHG to decision making, budgeting, and procurement by the Federal Government.

c. Tribal Consultation and Environmental Justice Engagement in NEPA. In conducting NEPA analyses, Bureaus/Offices must consider impacts on both the natural or physical environment as well as social, cultural, and economic impacts. Historically, many Federal agencies have not consistently obtained Tribal input or coordinated with Tribes to integrate Tribal concerns into the decision-making process. Tribal consultation is a means to rectify this by recognizing the government-to-government relationship and considering Tribal interests in decision making.

Minority and low-income communities across the country are disproportionately exposed to industrial, waste-disposal, or other facilities that emit harmful air pollution. Environmental justice seeks to address the disproportionately high health and environmental risks found among low-income and minority communities by seeking their fair treatment and involvement in decision making.

Bureaus/Offices will proactively begin consultation with potentially impacted Tribes, both those currently in the proposed area and those with a historic presence, as well as engage potentially impacted environmental justice communities early in the project planning process. “Early in the project planning process” includes when a Bureau/Office has enough information on a proposed action to determine that an environmental assessment or an environmental impact statement will be prepared.

Sec. 6 **Implementation.** The Deputy Secretary is responsible for ensuring implementation of this Order. This responsibility may be delegated, as appropriate.

Sec. 7 **Effect of the Order.** This Order is intended to improve the internal management of the Department. This Order and any resulting report or recommendations are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officer or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

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