

Drug Enforcement Administration
Diversion Control Division
Guidance Document

Title: Guidance Documents

Summary: This guidance document, which will be sent via email to all DEA registrants, provides information and clarification regarding DEA's use of guidance documents and where to find them.

Activity: Use and Posting of Guidance Documents by DEA

To Whom It Applies: DEA Registrants

Dear DEA-Registrants:

The Drug Enforcement Administration (DEA) is providing the following guidance to provide information and clarification regarding DEA's use of guidance documents. Specifically, this guidance will provide information regarding why DEA is utilizing guidance documents, where to find DEA's guidance documents, and the status of certain policy directives or regulatory interpretations issued by DEA prior to the establishment of its [Guidance Document Portal](#).

Background

DEA's Guidance Document Portal was established pursuant to [Executive Order 13891](#) (E.O. 13891), *Promoting the Rule of Law Through Improved Agency Guidance Documents*, signed by President Trump on October 9, 2019. The term "guidance document" was defined in E.O. 13891, in part, to mean "an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on statutory, regulatory, or technical issue, or an interpretation of a statute or regulation." E.O. 13891 required that agencies treat guidance documents as non-binding (with some exceptions), both in law and practice, take public comment into account when appropriate when formulating guidance documents, and make guidance documents readily available to the public.

In its memorandum [M-20-02](#), dated October 31, 2019, the Office of Management and Budget directed the Department of Justice (DOJ) to publish a notice in the *Federal Register* announcing the existence of a new guidance portal and explaining that all guidance documents remaining in effect will be contained on the guidance portal. This notice was published in the Federal Register on March 13, 2020 ([85 FR 14705](#)). The DOJ guidance portal may be found at <https://www.justice.gov/guidance>. DEA subsequently established its own guidance document portal, which can be found at <https://apps2.dea.diversion.usdoj.gov/guidance/#no-back-button>. This portal contains a single, searchable, indexed database that contains links to all DEA guidance documents. Thus, both the DOJ and DEA guidance portals allow members of the public to access DEA guidance documents.

To comply with E.O. 13891, DEA undertook a review of all guidance documents that were available to the public on DEA's Diversion Control Division website at that time. Memoranda, "Dear Registrant" letters, Q&As, and any other guidance documents that were not in compliance with E.O. 13891 were removed from the website.

On January 20, 2021, President Biden signed [E.O. 13992](#) which, among other things, revoked E.O. 13891. DEA has complied with E.O. 13992, however, DEA will continue to utilize its Guidance Document Portal to provide DEA registrants a user-friendly, searchable platform for them to expeditiously locate current DEA guidance on a wide range of pertinent topics.

Guidance

- Some guidance documents issued prior to November 2019, were removed from DEA's Diversion Control Division website and are not in the guidance portal, pursuant to E.O. 13891. These guidance documents will not be restored and should be considered rescinded or not valid.
- With respect to the guidance documents that are currently listed on the Guidance Document Portal, these documents do not have the force and effect of law, and are not binding on the public in any way.
- DEA will continue to post new guidance on its Guidance Document Portal when the need arises, so DEA registrants should periodically check the portal for any new guidance that may be of interest.

We hope this information is helpful. For more information regarding DEA's Diversion Control Division, please visit <https://www.deadiversion.usdoj.gov>. Please contact the Diversion Control Division, Policy Section at (571) 362-3260 if you seek additional assistance regarding this issue or any other matter.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or Department policies.

Sincerely,

Thomas W. Prevoznik
Deputy Assistant Administrator
Diversion Control Division