

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 00-001.00
TO THE DEPUTY SECRETARY

1. DELEGATION. Under the authority vested in me as Secretary of Energy and pursuant to section 642 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7252), I delegate to the Deputy Secretary authority to take the following actions:
 - 1.1 Under section 202 of the Department of Energy Organization Act (42 U.S.C. 7132):
 - A. Exercise authority, direction, and control over the Administrator for Nuclear Security, and the National Nuclear Security Administration (NNSA), including, but not limited to, the issuance of regulations, directives, and policy that apply to the NNSA, and the authorities of the Secretary mentioned in sections 3203, 3213, 3242, 3243, and 3292 of the National Nuclear Security Administration Act (Public Law 106-65). This authority may not be redelegated.
 - B. As Chief Operating Officer, and as Chair of the Field Management Council, be responsible for corporate program integration, the integration of support activities with line programs, and review of all staff and support office policy and guidance that affect the field. This authority may not be redelegated.
 - C. Serve as Chair of the Energy Systems Acquisition Advisory Board. This authority may not be redelegated.
 - 1.2 Under section 501 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7191 and the Regulatory Flexibility Act (Public Law 96-354, 5 U.S.C. 601 et seq.):
 - A. Under section 501(e), determine that strict compliance with section 501(b) of the Department of Energy Organization Act would be likely to cause serious harm or injury to the public health, safety, or welfare.
 - B. Waive the requirements of section 501(b) of the Department of Energy Organization Act after making the determination in paragraph 1.2.A of this Order.

- C. Determine that an emergency exists that necessitates waiving or delaying some or all of the requirements of section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603, 608).
 - D. Determine that an emergency exists that necessitates delaying the completion of the requirements of section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604).
 - E. Waive or delay the completion of some of all of the requirements of section 3(a) of the Regulatory Flexibility Act after making the determination in paragraph 1.2.C. (5 U.S.C. 603).
 - F. Delay the completion of the requirements of section 3(a) of the Regulatory Flexibility Act, after making the determination in paragraph 1.2.D., for a period of not more than 180 days after the date of publication of a final rule in the Federal Register (5 U.S.C. 604).
 - G. The authority in paragraph 1.2 may not be redelegated.
- 1.3 Under section 501 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7191 and the Regulatory Flexibility Act (Public Law 96-354, 5 U.S.C. 601 et seq.):
- A. Certify, in accordance with section 3(a) of the Regulatory Flexibility Act, that a proposed or final rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)).
 - B. Consider as one rule a series of closely related rules for the purposes of the Regulatory Flexibility Act (5 U.S.C. 602, 603, 604, and 610).
 - C. Determine, in accordance with section 501(b)(1) of the Department of Energy Organization Act, that a proposed rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses (42 U.S.C. 7191(b)).
 - D. Determine, in accordance with section 501(b)(1) of the Department of Energy Organization Act, that a substantial issue of law or fact does not exist with respect to a proposed rule (42 U.S.C. 7191(b)).
 - E. The authority delegated by paragraph 1.3 may be redelegated in writing, consistent with the Department of Energy Organization Act and the National Nuclear Security Administration (NNSA) Act.

- 1.4 In the event of the absence or disability of, or a vacancy in the offices of the Under Secretaries, initiate condemnation proceedings and execute declarations of taking, sign all correspondence and other documents in connection with such proceedings, and take all other necessary and appropriate actions to acquire, in connection with the Government's power of eminent domain, real or personal property or interests therein for the Department of Energy, including the NNSA. The authority to initiate condemnation proceedings and execute declarations of taking may not be redelegated.
- 1.5 On a nonexclusive basis, under 5 U.S.C. 2903, administer the oath of office and execute appointment affidavits for all Presidential appointments to the Department of Energy including the National Nuclear Security Administration appointments.
- 1.6 Render all final decisions on Performance Review Board recommendations pursuant to the performance of the Department's Senior Executive Service (SES) members. This delegation includes recommendations for SES performance ratings, recertification, bonuses, pay rate level adjustments, and related performance management policy changes.
- 1.7 Exercise general supervision over the functions of the Inspector General. This authority may not be redelegated.
- 1.8 On a nonexclusive basis, determine that an individual proposed for appointment to a position in Schedule C of the Excepted Service, as defined in 5 C.F.R. 213.3301 and 5 U.S.C. 2103, is qualified to perform the duties of the specific position for which he or she is proposed, when that individual does not meet general qualification requirements used to establish eligibility for such appointment.
- 1.9 Under sections 302(a), 641, 643, 644 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7151-7152 and 42 U.S.C. 7251-7254), on a nonexclusive basis, confirm, approve, and place into effect on an interim basis power and transmission rates for the Southeastern, Southwestern, and Western Area Power Administrations for such periods as the Deputy Secretary may provide.
- 1.10 Under Part 708, title 10, Code of Federal Regulations (hereinafter Part 708), on a nonexclusive basis:
 - A. Upon the request of a party to a Part 708 proceeding, review the initial agency decision issued by the Hearing Officer, Office of Hearings and Appeals, as provided in section 708.10; issue the final agency decision;

and take appropriate action, as provided in section 708.11. This authority may not be redelegated.

- B. Perform such other functions and take such other action provided in Part 708 to be performed or taken by the Secretary or designee, unless expressly delegated otherwise.
- 1.11 Carry out the functions vested in me pursuant to Section 252 of the Energy Policy and Conservation Act (Public Law 94-163, as amended), including all functions under the “Voluntary Agreement and Plan of Action to Implement the International Energy Program,” to prescribe by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum may develop and carry out voluntary agreements and plans of action which are required to implement the allocation and information provisions of the international energy program.
- 1.12 In reference to emergency authorities:
- A. Order the temporary connections of facilities, during times of war or other emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Deputy Secretary’s judgment will best meet the emergency and serve the public interest, pursuant to section 202(c) of the Federal Power Act (Public Law 74-333, 15 U.S.C. 824a(c)); and order permanent connections of such facilities for emergency use only pursuant to section 202(d) of the Federal Power Act.
 - B. Direct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, including the generation, transmission, distribution, and sale of electric energy by any agency, authority or instrumentality of the United States, or of any State or municipality or other political subdivision of a State, pursuant to section 311 of the Federal Power Act, as the Deputy Secretary determines is necessary or appropriate to perform his emergency functions.
 - C. Carry out the functions under sections 302 through 304(c) of the Natural Gas Policy Act of 1978 (Public Law 95-621, 15 U.S.C. 3362-3364(c)) and section 607 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617 as amended, 15 U.S.C. 7172), after consultation with the Assistant Secretary for Fossil Energy and with the heads of other Executive departments and agencies.

- D. Consult with the Assistant Secretary for Fossil Energy to provide energy emergency-related curtailment policy guidance, as necessary or appropriate, whenever the Assistant Secretary for Fossil Energy exercises authority under the Delegation of Authority to the Assistant Secretary for Fossil Energy to establish and review priorities for the curtailment of natural gas pursuant to the Natural Gas Act (Public Law 75-688) and sections 401, 402, and 403(a) of the Natural Gas Policy Act of 1978 (Public Law 95-687, 15 U.S.C. 3301) and section 402(a)(1)(E) of the Department of Energy Organization Act (15 U.S.C. 717w); and request that the Assistant Secretary for Fossil Energy initiate proceedings to amend curtailment priorities as necessary or appropriate to facilitate emergency natural gas operational activities.
 - E. Participate in any proceedings before the Federal Energy Regulatory Commission, pursuant to the provisions of section 405 of the Department of Energy Organization Act (42 U.S.C. 7175), or in any proceeding before any Federal or State agency or commission whenever such participation is related to the exercise of authority delegated to the Deputy Secretary.
 - F. Adopt rules, formulate and establish enforcement policy, initiate and conduct investigations, conduct conferences, administrative hearings and public hearings, prepare required reports, issue orders, and take such other action as may be necessary or appropriate to perform any of the functions in paragraph 1.12. The authority to adopt rules may not be redelegated.
2. RESCISSION. Delegation Order Nos. 0204-11, 0204-17, 0204-27, 0204-84, 0204-85, 0204-125, 0204-128, 0204-149, 0204-172, 0204-173 and Delegation Memorandum of September 28, 2001 are hereby rescinded.
3. LIMITATION.
- 3.1 In exercising the authority delegated in this Order, a delegate shall be governed by the rules and regulations of the Department of Energy and the policies and procedures prescribed by the Secretary.
 - 3.2 Nothing in this Order precludes the Secretary from exercising any of the authority delegated by this Order.
 - 3.3 Any amendments to this Order shall be in consultation with the Department of Energy General Counsel.

4. AUTHORITY TO REDELEGATE.

- 4.1 Except as expressly prohibited by law, regulation, or this Order, the Deputy Secretary may delegate this authority further, in whole or in part.
- 4.2 Copies of redelegations and any subsequent redelegations shall be provided to the Office of Management and Operations Support, which manages the Secretarial Delegations of Authority system.

5. DURATION AND EFFECTIVE DATE.

- 5.1 All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are ratified and remain in force as if taken under this Order, unless or until rescinded, amended or superseded.
- 5.2 This Order is effective December 6, 2001.



Spencer Abraham
Secretary of Energy