

DEPARTMENT OF ENERGY  
DELEGATION ORDER NO. ~~00-015.00D~~ S1-DEL-GC1-2020  
TO THE GENERAL COUNSEL

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 General Counsel of the Department of Energy (DOE) the authority to take the following actions:
  - 1.1 Under section 643 of the Department of Energy Organization Act (42 U.S.C. 7253), establish, alter, consolidate, or discontinue such second tier or below organizational units or components within the General Counsel's assigned programs and organizational elements as the General Counsel deems to be necessary or appropriate.
    - A. In exercising this authority, or as redelegated pursuant thereto, the General Counsel will be limited by approved budgets, staffing level allocations, and Senior Executive Service and other executive resource position allocations. Organizational changes shall not be announced or implemented until appropriate union coordination and other pre-release clearances have been obtained.
    - B. This authority does not include approval of additions, deletions, or transfers of mission and functions of or between Departmental Headquarters or Field Elements, which authority is reserved to the Secretary.
    - C. The authority to alter or consolidate second tier or below organizational elements may be redelegated, in whole or in part, consistent with the terms of the Department of Energy Organization Act, to an official or officials one level below the Head of the Departmental Element.
    - D. The authority to establish or discontinue organizational elements at the second tier or below 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(c) 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 2(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, 608).
  - E. Waive or delay the completion of some or all of the requirements of section 3(a) of the Regulatory Flexibility Act after making the determination in paragraph 1.2.C. of this Order (5 U.S.C. 603, 608).
  - F. Delay the completion of the requirements of section 3(a) of the Regulatory Flexibility Act, after making the determination in paragraph 1.2.E. of this Order, 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, 608).
- 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 this paragraph may be redelegated in writing, consistent with the Department of Energy Organization Act and the National Nuclear Security Administration (NNSA) Act.

- 1.4 Pursuant to section 645 of the Department of Energy Organization Act (42 U.S.C. 7255), sign, issue and serve subpoenas; administer oaths and affirmations; take sworn testimony; control dissemination of any record of such testimony; compel attendance of and sequester witnesses; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records or tangible evidence including, but not limited to, information retained in computerized or other automated systems.
- 1.5 On a nonexclusive basis, pursuant to 5 U.S.C. 2903, administer the oath of office and execute appointment affidavits for all Presidential appointments to DOE. In exercising the authority delegated by this order, the General Counsel shall be governed by the rules and regulations of title 5, U.S.C., pertaining to oaths and appointment affidavits, DOE regulations, and any other pertinent policies and procedures prescribed by the Secretary.
- 1.6 Under the Congressional Review Act (5 U.S.C. 801-804), notify Congress, after consultation with the Office of Management and Budget, of the issuance of a "rule" as defined by 5 U.S.C. 804.
- 1.7 Under the Equal Access to Justice Act (Public Law 96-481), determine which administrative proceedings fall within the Equal Access to Justice Act.
- 1.8 Under section 5(c)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), waive the requirement that notice of meetings of bodies created by the International Energy Agency be provided to the Secretary by or on behalf of Voluntary Agreement participants attending such meetings at least fourteen calendar days in advance of the meeting date. This authority may be exercised whenever emergency circumstances, requirements of the Agreement on an International Energy Program, or other unanticipated circumstances require shorter notice.
- 1.9 Pursuant to section 202(b) of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7132), determine the Department's authoritative position on any question of law not within the jurisdiction of the Federal Energy Regulatory Commission, including the issuance of such opinions as may be necessary or appropriate for the guidance of the Department.
- 1.10 On a nonexclusive basis, assert in litigation the deliberative process privilege and other legally-recognized privileges. The General Counsel is specifically authorized to further delegate this authority.
- 1.11 Exercise the authority under 10 CFR § 1021.343 to grant appropriate variances from the DOE NEPA regulations.

- 1.12 Pursuant to the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. Ch. 77, subchapter III, sign and issue all subpoenas, test notices, and all other documents involved in the enforcement of energy efficiency standards and regulations.
  - 1.13 Pursuant to the Price-Anderson Act (42 U.S.C. § 2210 et seq.), exercise all authority which can be exercised by the Secretary under 42 U.S.C. § 2210(h).
  - 1.14 Pursuant to section 40 U.S.C. 501(c)(1)(B) and as delegated to the Secretary by the Public Buildings Service Commissioner of the U.S. General Services Administration, represent the consumer interests of executive agencies of the Federal Government in proceedings before Federal and State utility regulatory bodies.
  - 1.15 Exercise all authorities currently or henceforth delegated to the General Counsel with respect to enforcement actions within the jurisdiction of the Department of Energy, including but not limited to the authority pursuant to the Energy Policy and Conservation Act of 1975, as amended, 42 U.S.C. Ch. 77, subchapter III, to sign and issue all subpoenas, test notices, and all other documents involved in the enforcement of energy efficiency standards.
  - 1.16 Pursuant to section 301 of the Department of Energy Organization Act and section 32(c) of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977, and codified at 15 U.S.C. 788(c) consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of subject rulemakings on competition.
  - 1.17 Pursuant to 42 U.S.C. 6295(o)(2)(B)(i)(V), consult with the Attorney General to seek advice regarding whether adoption of a proposed energy conservation standard under the Energy Policy and Conservation Act is likely to lessen competition.
  - 1.18 Represent the Department in any proceeding 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, in coordination with the DOE Element delegated the authority to participate in any such proceeding.
2. RESCISSION. Delegation Order 00-015.00C is 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 DOE and the policies and procedures prescribed by the Secretary or delegate(s).
- 3.2 Nothing in this Order precludes the Secretary from exercising any of the authority delegated by this Order.
- 3.3 Nothing in this Order shall be construed to supersede or otherwise interfere with the authorities provided to the Administrator for Nuclear Security by law or by delegation. Furthermore, nothing herein constitutes authority to exercise authority, direction, or control of an employee of the National Nuclear Security Administration or its contractors.

4. AUTHORITY TO REDELEGATE.

- 4.1 Except as expressly prohibited by law, regulation, or this Order, the General Counsel 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, 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 11/17/2020.



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Dan Brouillette  
Secretary of Energy