

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. S1-DEL-S3-2022-2
TO THE UNDER SECRETARY (FOR INFRASTRUCTURE)

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 Under Secretary (for Infrastructure) 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 Under Secretary (for Infrastructure)'s assigned programs and organizational elements as the Under Secretary (for Infrastructure) may deem to be necessary or appropriate.
 - A. In exercising this authority, or as redelegated pursuant thereto, the Under Secretary (for Infrastructure) 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 assigned Heads of Departmental Headquarters and Field Elements and to an official or officials one level below the Head of the Departmental Headquarters or Field Elements.
 - D. The authority to establish or discontinue organizational elements at the second tier or below may be redelegated only to the Head of Departmental Headquarters or Field Elements.
 - 1.2 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 this Delegation.

Grid Deployment Office

- 1.3 Implement section 13 of the Federal Energy Administration Act of 1974 (15 U.S.C. 772), to collect, assemble, evaluate, and analyze energy information and to exercise all information gathering authorities provided in this section.
- 1.4 Implement section 11 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (Public Law 93-319, 15 U.S.C. 796), to request, acquire and collect such energy information as the Under Secretary (for Infrastructure) determines to be necessary to assist in the formulation of energy policy or to carry out the purposes of ESECA, and to exercise all energy information reporting authorities provided in this section.
- 1.5 In reference to fuel use under the Powerplant and Industrial Fuel Use Act (FUA), (Public Law 95-620, 42 U.S.C. 8301 et seq.) as amended:
 - A. Monitor compliance with the prohibition against the construction of new powerplants without the capability to use coal or another alternate fuel as a primary energy source, pursuant to section 201 of FUA; grant or deny exemptions from such prohibition, pursuant to sections 211 through 214 of FUA; issue prohibitions against the use of oil or natural gas to certifying existing electric powerplants under section 301 of FUA; grant or deny exemptions to certifying existing electric powerplants under sections 311 through 314 of FUA; and take such other actions as may be necessary or appropriate to perform any of the above functions pursuant to section 701 of FUA.
 - B. Issue notices of effectiveness, modification, or rescission to coal conversion orders issued pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319, 15 U.S.C. 791 et seq.), as amended.
- 1.6 In reference to electric power regulations under the Federal Power Act (FPA), (16 U.S.C. 791a-825r.).
 - A. Implement section 206(d) of the FPA to investigate and determine, upon the Under Secretary (for Infrastructure)'s or a delegate's own motion or the request of any State commission, the cost of production or transmission of electric energy by means of facilities that are subject to the jurisdiction defined by section 201 of the FPA, as the Under Secretary (for Infrastructure) or a delegate determines is necessary or appropriate to perform his or her functions.
 - B. Implement section 311 of the FPA to conduct 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 by any State or municipality or other political subdivision of a State, as the Under Secretary (for Infrastructure) or a delegate determines is necessary or appropriate to perform these functions.

- C. Implement section 307 of the FPA to investigate any facts, conditions, or practices which the Director, Grid Deployment Office or a delegate may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of the FPA or any rule, regulation, or order thereunder; or to aid in the enforcement of the provisions of the FPA or in prescribing rules or regulations thereunder; or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which the FPA relates.
- D. Regulate the export of electric energy to a foreign country, pursuant to the provisions of sections 202(e) and 202(f) of the FPA, and authorize the construction, operation, maintenance, or connection of facilities, at the borders of the United States, for the transmission of electric energy between the United States and a foreign country, pursuant to the provisions of Executive Order 10485, as amended by Executive Order 12038.
- E. Exercise the authority under section 216(h) of the FPA for the coordination of Federal authorizations for transmission facilities.

1.7 In reference to energy emergency preparedness:

- A. Exercise the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.) authorities under sections 201 – 203 of Executive Order 13603 (National Defense Resources Preparedness); or section 4 of Executive Order 11790 (Providing for the effectuation of the Federal Energy Administration Act of 1974), as amended, except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security. Exercise the authority under titles I and VII of the Defense Production Act of 1950, delegated to the Secretary in Department of Commerce Defense Priorities and Allocations System (DPAS) Delegation 2, as amended, which authorizes action pursuant to the Department of Commerce DPAS regulation at 15 C.F.R. Part 700. The exercise of any of these authorities is subject to the concurrence of the General Counsel.
- B. Carry out the responsibilities assigned to the Secretary in sections 701(1)(c) and 702(2) of Executive Order 12656 (Assignment of Emergency

Preparedness Responsibilities), except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security.

- C. Exercise the authority under section 209(b) of the Public Utility Regulatory Policies Act (16 U.S.C. 824a-2(b)) with respect to requesting appropriate persons (including Federal agencies) to examine and report to the Secretary concerning any electric utility reliability issue.
- 1.8 Participate 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, whenever such participation is related to the exercise of authority delegated to the Under Secretary (for Infrastructure). The exercise of this authority is subject to the concurrence of the General Counsel.

Loan Programs Office

- 1.9 For the Loan Programs Office, serve as the Contracting Officer to enter into, administer, and terminate:
- A. Loan guarantees and loan guarantee agreements and all related nonprocurement documents associated with loan guarantees issued pursuant to Title XVII of the Energy Policy Act of 2005, as amended (42 U.S.C. 16511-16514) ("Title XVII") (such agreements and documents, collectively, "Title XVII Loan Guarantee Agreements");
 - B. Loan guarantees and loan guarantee agreements and all related nonprocurement documents associated with loan guarantees issued pursuant to Title XXVI of the Energy Policy Act of 1992, as amended (25 U.S.C. 3502(c)) ("TELGP") (such agreements and documents, collectively "TELGP Loan Guarantee Agreements" and, together with Title XVII Loan Guarantee Agreements, "Loan Guarantee Agreements");
 - C. Loan agreements and related nonprocurement documents associated with loans issued pursuant to section 136(d) of the Energy Independence and Security Act, 42 U.S.C. 17013(d) (the "ATVM Statute") (such agreements and documents, collectively "ATVM Loan Agreements"); and
 - D. Term sheets and conditional commitments related to Loan Guarantee Agreements and ATVM Loan Agreements (the "Conditional Commitments").
 - E. The foregoing authority (under subparagraphs A through D above) to administer Loan Guarantee Agreements, ATVM Loan Agreements and

Conditional Commitments shall include, without limitation, the authority to:

1. Extend the date by which an offer of a Conditional Commitment must be accepted;
2. Extend the expiration date of a Conditional Commitment;
3. Enter into amendments to, or waivers and consents respecting the provisions of, Loan Guarantee Agreements, ATVM Loan Agreements, and Conditional Commitments, including in connection with the work out or restructuring plan approved in accordance with the clause below (4);
4. Authorize and implement work-out or restructuring plans for loan and loan guarantee transactions under Title XVII, TELGP, and the ATVM Statute;
5. After consultation with the Chief Financial Officer of the Department of Energy, authorize write-offs for loan and loan guarantee transactions under Title XVII, TELGP, and the ATVM Statute, upon the recommendation of the Director, Portfolio Management Division of the Loan Programs Office; and
6. Subject to available budget authority, authorize additional loans or loan guarantees to borrowers party to an existing Loan Guarantee Agreement or ATVM Loan Agreement for the project(s) financed by such agreements and in an aggregate amount not to exceed the lesser of:
 - (A) Ten percent (10%) of the aggregate principal amount of the original loan or, in the case of a loan guarantee, the guaranteed portion of the original loan; or
 - (B) \$50,000,000.

1.10 The foregoing authority under Paragraph 1.9 shall be exercised only after the Secretary, the Under Secretary (for Infrastructure), or their delegate has:

- A. With respect to a Loan Guarantee Agreement or ATVM Loan Agreement, granted final approval of such agreement; or
- B. With respect to a Conditional Commitment, granted approval of such Conditional Commitment.

Office of Clean Energy Demonstrations

- 1.11 Under section 624 of the Department of Energy Organization Act (42 U.S.C. 7234) and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2), nominate, appoint, renew the term of, and terminate the service of members; convene meetings; and make the determination to close all or part of a meeting in accordance with 5 U.S.C. 552b(c) for all committee organize pursuant to the Federal Advisory Committee Act that are administratively supported by an organization reporting to the Director, Office of Clean Energy Demonstrations. Pursuant to 18 U.S.C. 208(b)(3), after consultation with the Department's Designated Agency Ethics Official, issue conflict-of-interest waivers for special Government employees serving on a Federal Advisory Committee that is administratively supported by the Office of Clean Energy Demonstrations.
- 1.12 Under section 988 of the Energy Policy Act of 2005:
- A. Approve requests for reduction or elimination of the cost sharing requirement for a research and development activity of an applied nature in accordance with section 988(b)(3);
 - B. Approve requests for reduction of the cost sharing requirement for the non-federal share of demonstration and commercial application activities in accordance with section 988(c)(2); and
 - C. Exclude research and development of a basic or fundamental nature from the cost sharing requirements, as described in section 988(b)(2).

These authorities may be exercised only after providing notification to the Office of the Secretary. Furthermore, the approval Authorities delegated in subparagraphs A and B can be exercised only in coordination with the Secretarial Policy Statement entitled, "Application of Cost Share Requirements under Section 988 of Energy Policy Act (EPACT) of 2005, Pub. L. 109-58."

- 1.13 Exercise the authority of the Secretary of Energy under sections 1605(b)(1), 1605(b)(2) and 1605(b)(3) of the American Recovery and Reinvestment Act of 2009 ("Recovery Act")(Public Law 111-5) to waive, after making specific findings, the application of section 1605(a) of the Recovery Act to expenditures within the purview of responsibility of the Director, Office of Clean Energy Demonstrations. Section 1605(a) requires that none of the funds appropriated or otherwise made available under the Recovery Act may be used for construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods are produced in the United States. Further, in exercising this authority, a delegate will carry out the responsibility contained section 1605(c) to publish in the Federal Register a

detailed written justification for each waiver as to why the provision is being waived.

- 1.14 Exercise all authorities vested in the Secretary of Energy under the Stevenson-Wydler Technology Innovation Act of 1980 (Public Law 96-480), as amended by section 105(a) of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010 (Public Law 111-358) and section 401(b) of the American Innovation and Competitiveness Act (Public Law 114-329), as set forth in 15 U.S.C. 3719.
- 1.15 Under section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577, 42 U.S.C. 5907) carry out functions relating to identification of opportunities to accelerate the commercial applications of new energy technologies.
- 1.16 On matters pertaining to the Office of Clean Energy Demonstrations, assert, on a nonexclusive basis, the Federal Government's deliberative process privilege.

Office of Cybersecurity, Energy Security, and Emergency Response

- 1.17 Implement section 13 of the Federal Energy Administration Act of 1974 (15 U.S.C. 772), to collect, assemble, evaluate, and analyze energy information and to exercise all information gathering authorities provided in this section.
- 1.18 Implement section 11 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (Public Law 93-319, 15 U.S.C. 796), to request, acquire and collect such energy information as the Under Secretary for (for Infrastructure) determines to be necessary to assist in the formulation of energy policy or to carry out the purposes of ESECA, and to exercise all energy information reporting authorities provided in this section.
- 1.19 In reference to electric power regulations under the Federal Power Act (FPA), (16 U.S.C. 791a-825r).
 - A. After issuance of an order pursuant to section 202(c) or 207 of the FPA, by the Secretary or Deputy Secretary, review compliance filings, and issue implementing letters or directives; and take such other actions as are necessary and appropriate to implement and administer the FPA order.
 - B. After issuance of an order pursuant to section 215A(b) of the FPA, by the Secretary or Deputy Secretary, review compliance filings, and issue implementing letters and directives; and take such other actions as are necessary and appropriate to implement and administer the FPA order.
 - C. Implement paragraphs (c) through (e) of section 215A of the FPA: designate critical defense facilities; designate, protect, and share critical

electric infrastructure information; and facilitate and expedite the acquisition of security clearances by key personnel subject to the requirements of section 215A.

1.20 In reference to energy emergency preparedness:

- A. Exercise the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.) authorities under sections 201 – 203 and section 701 of Executive Order 13603 (National Defense Resources Preparedness); or section 4 of Executive Order 11790 (Providing for the effectuation of the Federal Energy Administration Act of 1974), as amended, except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security. Exercise the authority under titles I and VII of the Defense Production Act of 1950, delegated to the Secretary in Department of Commerce Defense Priorities and Allocations System (DPAS) Delegation 2, as amended, which authorizes action pursuant to the Department of Commerce DPAS regulation at 15 C.F.R. Part 700. The exercise of any of these authorities is subject to the concurrence of the General Counsel.
- B. Carry out the responsibilities assigned to the Secretary in section 61003(c) of the FAST Act (Public Law 114-94, 6 U.S.C. 121 note); Executive Order 13800 (Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure); Executive Order 13744 (Coordinating Efforts to Prepare the Nation for Space Weather Events); Executive Order 13636 (Improving Critical Infrastructure Cybersecurity); sections 701(1)(a)-(c), (2), (5), (7), (9), (10) and 702(3), (4) of Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities); Presidential Policy Directive (PPD) - 41 (United States Cyber Incident Coordination); PPD-21 (Critical Infrastructure Security and Resilience), PPD-8 (National Preparedness); and Homeland Security Presidential Directive (HSPD)-5 (Management of Domestic Incidents), except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security.
- C. Carry out the responsibilities assigned to the Secretary under section 211(c) of the Clean Air Act to provide concurrence on an action by the Environmental Protection Agency to waive a fuel or fuel additive requirement if doing so will alleviate a fuel supply emergency.

Office of Federal Energy Management Programs

- 1.21 With the concurrence and assistance of the General Counsel, request that GSA authorize the Secretary of Energy to intervene in utility rate proceedings before any Federal or State regulatory bodies to represent the consumer interests of executive agencies of the Federal Government.

- 1.22 Under the National Energy Conservation Policy Act (NECPA) Public Law 95-619, as amended:
- A. Exercise the authorities of the Secretary of Energy in Title V, Part 3 of NECPA (42 U.S.C. sections 8251-8261) except the authority to report annually to Congress as required by section 548(b) of NECPA.
 - B. Exercise authorities of the Secretary of Energy in Title VIII of NECPA (42 U.S.C. sections 8287-8287c).
- 1.23 Participate 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, whenever such participation is related to the exercise of authority delegated to the Under Secretary (for Infrastructure). The exercise of this authority is subject to the concurrence of the General Counsel.

Office of State and Community Energy Programs

- 1.24 Under the National Energy Conservation Policy Act (NECPA) Public Law 95-619, as amended exercise authorities of the Secretary of Energy in Title III, Parts 1 and 2, except the authority to suspend grants pursuant to sections 395(e) and 400(d) of the Energy Policy and Conservation Act, as amended.

Power Marketing Administrations

- 1.25 Under sections 302(a), 641, 643, and 644 of the Department of Energy Organization Act (42 U.S.C. 7152(a), 7251, 7253, and 7254):
- A. 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 Under Secretary (for Infrastructure) may provide. In addition, under the authority vested in me as Secretary of Energy and pursuant to sections 202 and 642 of the Department of Energy Organization Act (42 U.S.C. 7132 and 7252), I delegate to the Under Secretary (for Infrastructure) the authority vested in me with respect to the Southeastern, Southwestern, and Western Area Power Administrations, and the Bonneville Power Administration.
 - B. Develop and place into effect on a final basis rates for short-term sales of capacity, energy, or transmission service. Short-term sales are those sales that last no longer than one year.
- 1.26 Pursuant to section 202(a) of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7132(a)), perform the function specified in the Delegation

of Authority for the Bonneville Power Administration Building from the General Services Administration (GSA) to the Department of Energy, dated March 31, 2011.

- 1.27 Perform all functions delegated to the Secretary of Energy by the Assistant Attorney General, Land and Natural Resources Division, on December 1, 1980, relating to approving the sufficiency of the title to land being acquired by purchase or condemnation by the United States for the use of the Department of Energy in connection with acquisition of lands by the Bonneville Power Administration, the Western Area Power Administration, and the Southwestern Power Administration.

This delegation of authority is limited to: (a) the acquisition of land for which the title evidence consists of a certificate of title, title insurance policy, or an owner's duplicate Torrens certificate of title; and (b) the acquisition of lands valued at \$100,000 or less, for which the title evidence consists of abstracts of title or other types of title evidence prepared in compliance with the Regulations of the Attorney General Governing the Review and Approval of Title for Federal Land Acquisitions (2016). Any further delegate(s) shall be governed by the applicable regulations and requirements of the Department of Justice.

- 1.28 Pursuant to sections 1605(b)(2), 1605(b)(3), and 1605(c) of the American Recovery and Reinvestment Act of 2009 ("Recovery Act") (Public Law 111-5), waive, after making the specified findings, the application of section 1605(a) of the Recovery Act to BPA expenditures and publish in the Federal Register a detailed written justification for each waiver as to why the provision is being waived. Section 1605(a) requires that none of the funds appropriated or otherwise made available under the Recovery Act may be used for construction, alteration, maintenance or repair of a public building or public work unless all of the iron, steel and manufactured goods are produced in the United States.
- 1.29 With respect to purchase power and wheeling transactions for the Southeastern Power Administration, Southwestern Power Administration, and Western Area Power Administration, make the determination, on a case by case basis, that compliance with the three full business days advance notification requirements of section 311 of title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (P.L. 111-85) would pose a substantial risk to human life, health, or safety and make post-award notifications to the Committees on Appropriations of the Senate and House of Representatives not later than 5 full business days after such award is made or letter issued.
- 1.30 Determine, on a nonexclusive basis, that an expenditure of funds appropriated to the Southeastern Power Administration, Southwestern Power Administration, or Western Area Power Administration for emergency purposes is required to ensure continuity of service.

- 1.31 Including, but not limited to the provision of the Declaration of Taking Act of February 26, 1931, Chapter 302, section 1, 46 Stat. 1421, 40 U.S.C. 3114, on a nonexclusive basis, perform all functions vested in the Secretary of Energy by law to initiate condemnation proceedings, to sign and submit directly to the Department of Justice declarations of taking related to such proceedings, to execute all correspondence and other documents in connection with such proceedings, and to 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 transmission lines and related facilities for the Southwestern Power Administration and the Western Area Power Administration.

The authority hereby delegated to the Under Secretary (for Infrastructure) to initiate condemnation proceedings and execute declarations of taking may only be redelegated to the Assistant Secretary for Electricity, who may only redelegate this authority to the Administrators of the Southwestern Power Administration and the Western Area Power Administration.

- 1.32 With respect to the Western Area Power Administration and Southwestern Power Administration, and pursuant to the authority under section 301 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377, 42 U.S.C. 7278), accept lands, buildings, equipment, and other contributions from public and private sources and prosecute projects in cooperation with other agencies, Federal, State, private, or foreign, provided that the acceptance of lands shall be subject to existing laws, regulations, and policies pertaining to the Government's acquisition of real property. This authority is expressly limited to the acceptance of lands, buildings, equipment, and other contributions directly associated with the transmission systems owned by the Western Area Power Administration or the Southwestern Power Administration, and shall only be exercised after consultation with the General Counsel of the Power Administration.

The authority hereby delegated to the Under Secretary (for Infrastructure) to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign, may only be redelegated to the Assistant Secretary for Electricity, who may only redelegate this authority to the Administrators of the Western Area Power Administration and the Southwestern Power Administration.

2. RESCISSION. Delegation Order No. S1-DEL-S3-2022 is hereby rescinded.

4. LIMITATION.

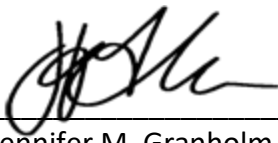
- 3.1 In exercising the authority delegated in this Order, a delegate shall be governed by the rules and regulations of the Department of Energy and the policies and procedures prescribed by the Secretary or delegate(s).
- 3.2 Nothing in this Order precludes the Secretary from exercising any of the authority 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.
- 3.4 Any amendments to this Order shall be made 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 Under Secretary (for Infrastructure) 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 06/13/22.



Jennifer M. Granholm
Secretary of Energy