

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 0204-24
TO THE DIRECTOR OF THE OFFICE OF HEARINGS AND APPEALS

Pursuant to the authority vested in me as Secretary of Energy (“Secretary”) and by Section 642 of the Department of Energy Organization Act (Pub. L. 95-91) (the “DOE Act”), there is hereby delegated to the Director of the Office of Hearings and Appeals (“HG”) the authority to:

1. Issue orders with respect to applications for an adjustment (exception) to any rule, regulation or order having the applicability and effect of a rule issued under the Federal Energy Administration Act (Pub. L. 93-275), as amended (“FEAA”), the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended (“EPAA”), the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319), as amended (“ESECA”), the Energy Policy and Conservation Act (Pub. L. 94-163), as amended (“EPCA”), the Trade Expansion Act of 1962 (Pub. L. 87-794) and Proclamation No. 3279, as amended, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens;
2. Issue orders with respect to applications for exception to any rule, regulation or order having the applicability and effect of a rule issued under any statutory authority other than those listed above, vested in the Secretary, consistent with the other purposes of the relevant statutory authority, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens whenever such statutes or Departmental regulations provide for the issuance of such orders;
3. Issue orders with respect to applications for an exemption (as that term is defined in 10 CFR Part 205, Subpart E, and 10 CFR Part 303, Subpart F) to rules and regulations issued under the FEAA, the EPAA, the ESECA or EPCA;
4. Issue decisions pursuant to regulations adopted by the Department with respect to the administrative appeal of any DOE order other than those appeals that are vested in or assigned to the Federal Energy Regulatory Commission;
5. Issue orders pursuant to Departmental procedures with respect to applications for modification or rescission of any DOE order;
6. Issue orders with respect to petitions for special redress, relief, or other extraordinary assistance;
7. Issue orders with respect to applications for stay of any order, rule, regulation, ruling or other generally applicable requirement as incident to the proceedings set forth in the other provisions of this Delegation Order;

8. Issue appeal decisions with respect to Remedial Orders (including Remedial Orders for Immediate Compliance and Orders of Disallowance) relating to Notices of Probable Violation that were issued by the Federal Energy Administration prior to October 1, 1977;
9. Conduct adjudicatory proceedings with respect to and issue final Remedial Orders, Remedial Orders for Immediate Compliance and Orders of Disallowance;
10. Advise FERC whenever a recipient of a Remedial Order, Remedial Order for Immediate Compliance or Order of Disallowance notifies the Director that he intends to contest the Order;
11. Issue decisions, with the concurrence of the Deputy Secretary, with respect to requests made by organizations for financial assistance to participate in any regulatory or adjudicatory proceeding other than a FERC matter;
12. Conduct adjudications under Section 11 of the Clayton Act (15 U.S.C. 21) as related to the transportation of oil by pipeline, pursuant to the provisions of Section 306 of the DOE Act;
13. Conduct adjudicatory proceedings and issue orders in any instance in which a statute vesting authority in the Secretary requires an adjudication or appellate procedure and express Departmental procedures do not specify the manner in which the statutory authority is to be exercised;
14. Conduct such other proceedings and take such other action as the Secretary or his authorized delegate(s) may, from time to time, direct or authorize;
15. Promulgate rules of practice and procedures as necessary and appropriate for the Director to perform his functions;
16. Develop and adopt Guidelines for the evaluation of matters within his jurisdiction;
17. Sign documents for publication in the Federal Register which are necessary and appropriate for the Director to perform his functions;
18. When necessary and incidental to the exercise of the authority delegated hereby, request information, undertake investigations and conduct conferences, hearings or public hearings with respect to the functions delegated hereby; administer oaths and affirmations to any person, and suspend or disqualify any person appearing at such conferences or hearings; issue subpoenas and, if appropriate, direct that payment of witness fees and mileage be made to any witness appearing in response to such subpoenas; and

19. Take such other actions as are necessary and proper to assure the efficient and effective processing, consideration and decision by the Office of Hearings and Appeals of the matters referred to in this Delegation Order.

The authority hereby delegated to the Director may be further delegated, in whole or in part, as may be appropriate, provided that the Director shall not further delegate, in whole or in part, the authority delegated to him in Paragraph 15 above.

The orders described in Paragraphs 1 and 2 (including proposed exception decisions) as well as Paragraphs 3, 5, and 6 shall be issued only with the concurrence of the Administrative Review Committee, the Senior Review Committee or the Deputy Secretary as appropriate. Orders in the nature of an exception issued pursuant to Paragraphs 13 and 14 shall require the concurrence of appropriate Review Committee unless otherwise specified by Deputy Secretary. However, the concurrence of the Review Committee shall not be required for any interlocutory orders, extensions of relief previously provided, summary dismissals, dismissals of a matter without prejudice to resubmission, or supplemental orders generally contemplated by a prior order.

The authority delegated to the Director by Paragraph 4 of this Delegation Order does not include the authority to order any Office of the Department to take or refrain from taking any action except in the context of a pending proceeding before the Office of Hearings and Appeals or with respect to issues involving practice or procedure before the Office of Hearings and Appeals.

Prior to taking any action pursuant to Paragraphs 15 or 16, the Director shall consult with the General Counsel and any program office that is directly affected by the proposed action.

The authority delegated to the Director by this Delegation Order does not include the authority to decide any matter that is within the jurisdiction of the FERC, or that has been assigned or delegated to the Board of Contract Appeals, or that involves personnel matters, or to issue determinations that pertain solely to the internal administration of the Department, or to any matters involving condemnation proceedings, declarations of taking, or determinations made by the Assistant Secretary for Defense Programs pursuant to Delegation Order No. 0204-2.

In exercising the authority delegated by this Order or as redelegated pursuant thereto, the delegate(s) shall be governed by the rules and regulations of DOE and the policies and procedures prescribed by the Secretary or his delegate.

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 hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

This Order is effective March 30, 1978.

_____/s/
James R. Schlesinger
Secretary

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 0204-24
AMENDMENT NO. 1
TO THE DIRECTOR OF THE OFFICE OF HEARINGS AND APPEALS

Pursuant to the authority vested in me as Secretary of Energy ("Secretary") and by Section 642 of the Department of Energy Organization Act (Pub. L. 95-91), Delegation Order No. 0204-24 (March 30, 1978), to the Director of the Office of Hearings and Appeals, is hereby amended as follows:

1. The paragraphs numbered 17, 18 and 19 are renumbered 18, 19 and 20 respectively.
2. The following paragraph is added after paragraph 16:
 17. Issue decisions on appeals from determinations made, and waivers granted or denied, by the Secretary, or his delegate, pursuant to Sections 216 (d) (1) and (2) and 216 (e) of the National Energy Conservation Policy Act (Pub. L. 95-619; Nov. 9, 1978);

All actions pursuant to any authority delegated prior to this Amendment or pursuant to any authority delegated by this Amendment taken prior to and in effect on the date of this Amendment are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Amendment, unless or until rescinded, amended or superseded.

This Order is effective May 5, 1980.

/s/
Charles W. Duncan, Jr.
Secretary

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 0204-24
AMENDMENT NO. 2
TO THE DIRECTOR OF THE OFFICE OF HEARINGS
AND APPEALS

Pursuant to the authority vested in me as Secretary of Energy (“Secretary”) and by Section 642 of the Department of Energy Organization Act (Pub. L. 95-91), Delegation Order No. 0204-24 (March 30, 1978), to the Director of the Office of Hearings and Appeals, as amended, is hereby further amended as follows:

1. The paragraphs numbered 17, 18, 19 and 20 are renumbered 18, 19, 20 and 21 respectively.
2. The following paragraph is added after paragraph 16:
 17. Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 (Pub. L. 99-509) (“PODRA”), determine and publish annually (along with a justification thereof) in the Federal Register the amount held in the escrow accounts described in section 3002 that is in excess of the amount that will be needed to make restitution to persons or classes of persons in accordance with subsection (b)(1) of section 3003 and to meet other commitments of such accounts, and transmit annually to the congressional committees specified in PODRA a report containing an estimate of the amount that will be determined under section 3003(c) to be the excess amount for purposes of section 3003(d)(1)(B) for the fiscal year beginning the next October 1.

All actions pursuant to any authority delegated prior to this Amendment or pursuant to any authority delegated by this Amendment taken prior to and in effect on the date of this Amendment are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Amendment unless or until rescinded, amended or superseded.

This Order is effective November 26, 1986.

_____/s/
John S. Herrington
Secretary

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. 0204-24
AMENDMENT NO. 3
TO THE DIRECTOR OF THE OFFICE OF HEARINGS
AND APPEALS

Pursuant to the authority vested in me as Secretary of Energy (“Secretary”) and by the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201, the Energy Reorganization Act of 1974, as amended, 42 U.S.C. §§ 5814 and 5815, the Department of Energy Organization Act, as amended, 42 U.S.C. §§ 7251, 7254, 7255, and 7256, Delegation Order No. 0204-24 (March 30, 1978), to the Director of the Office of Hearings and Appeals, as amended, is hereby further amended as follows:

1. The paragraphs numbered 17, 18, 19, 20 and 21 are renumbered 18, 19, 20, 21 and 22 respectively.
2. The following paragraph is added after paragraph 16:
 17. Conduct adjudicatory proceedings and issue initial agency decisions pursuant to 10 C.F.R. Part 708, the “Criteria and Procedures for DOE Contractor Employee Protection Program.” For purposes of this Delegation Order, proceedings arising under 10 C.F.R. Part 708 shall not be considered Federal employee personnel matters.
3. The last paragraph on page 4 is amended to read as follows:

The authority delegated to the Director by this Delegation Order does not include the authority to decide any matter that is within the jurisdiction of the FERC, or that has been assigned or delegated to the Board of Contract Appeals, or that involves Federal employee personnel matters, or to issue determinations that pertain solely to the internal administration of the Department, or to any matters involving condemnation proceedings, declarations of taking, or determinations made by the Assistant Secretary for Defense Programs pursuant to Delegation Order No. 0204-2.

All actions pursuant to any authority delegated prior to this Amendment or pursuant to any authority delegated by this Amendment taken prior to and in effect on the date of this Amendment are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Amendment, unless or until rescinded, amended or superseded.

This Order is effective 30 days after the publication of 10 C.F.R. Part 708 in the Federal Register as a final rule. (March 3, 1992)

_____/s/_____
James D. Watkins
Admiral, U.S. Navy (Retired)
Secretary of Energy