Tuesday,
October 22, 2002

Part VII

Department of Labor

Secretary’s Order 5–2002; Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health; Notice
DEPARTMENT OF LABOR

Office of the Secretary

Secretary's Order 5–2002; Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health

1. Purpose

To delegate authority and assign responsibility to the Assistant Secretary for Occupational Safety and Health.

2. Authorities and Directives Affected

a. Authorities


4. Delegation of Authority and Assignment of Responsibility

a. The Assistant Secretary for Occupational Safety and Health

(1) The Assistant Secretary for Occupational Safety and Health is delegated authority and assigned responsibility for administering the safety and health, and whistleblower, programs and activities of the Department of Labor, except as provided in paragraph 4.a.(2) below, under the designated provisions of the following laws:


(g) 5 U.S.C. 7902 and any executive order thereunder, including Executive Order 12196 (“Occupational Safety and Health Programs for Federal Employees”) (February 26, 1980).
(n) Federal Water Pollution Control Act, 33 U.S.C. 1367.
(q) Clean Air Act, 42 U.S.C. 7622.
(s) Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A.
(t) Responsibilities of the Secretary of Labor with respect to safety and health, or whistleblower, provisions of any other Federal law except those responsibilities which are assigned to another DOL agency.

(2) The authority of the Assistant Secretary for Occupational Safety and Health under the Occupational Safety and Health Act of 1970 does not include authority to conduct inspections and investigations, issue citations, assess and collect penalties, or enforce any other remedies available under the statute, or to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) Field sanitation, 29 CFR 1928.110; and
(b) Temporary labor camps, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in “agricultural employment” within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, red meat production, or the post-harvest processing of agricultural or horticultural commodities.

Nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for OSHA retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps. Moreover, the Assistant Secretary for OSHA retains all other agency authority and responsibility under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps, such as rulemaking authority.

(3) The Assistant Secretary for OSHA is hereby delegated authority and assigned responsibility to invoke all appropriate claims of governmental privilege, arising from the functions of OSHA, following personal consideration of the matter, and in accordance with the following guidelines:

(a) Informant’s privilege (to protect from disclosure the identity of any person who has provided information to
The Assistant Secretary for Employment Standards.

The Assistant Secretary for Occupational Safety and Health, the Solicitor of Labor, and the Commissioner of Labor Statistics may redelegate authority delegated in this Order.

7. Effective Date

This delegation of authority and assignment of responsibility is effective immediately.


Elaine L. Chao,
Secretary of Labor.

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