DEPARTMENT OF LABOR
Office of the Secretary

[Secretary’s Order 1–2012]

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.


B. Directives Affected. Secretary’s Order 4–2010 is hereby superseded by this Order.

3. Background. This Order constitutes the basic Secretary’s Order for the Occupational Safety and Health Administration (OSHA), superseding Order 4–2010. This Order amends the delegation and assignment of responsibility to OSHA for enforcement of Section 18C (protection of employees under Title I of the Affordable Care Act) of the Fair Labor Standards Act (29 U.S.C. 218C), as added by Section 1558 of the Affordable Care Act of 2010. Public Law 111–148, to clarify that OSHA’s authority under Section 18C of the Fair Labor Standards Act includes the associated Fair Labor Standards Act authorities in sections 9 and 11 (29 U.S.C. 209 and 211) to issue subpoenas and conduct investigations. This delegation and assignment of responsibility to OSHA under Section 18C of the Fair Labor Standards Act, along with the associated subpoena and investigations authority, is also set forth in Secretary’s Order 5–2010. Delegation of Authorities and Assignment of Responsibilities to the Administrator, Wage and Hour Division, Sept. 2, 2010. This Order also delegates and assigns responsibility to OSHA for enforcement of (1) the Seaman’s Protection Act, 46 U.S.C. 2114 (SPA), as amended by Section 611 of the Coast Guard Authorization Act of 2010, Public Law 111–281; and (2) Section 402 of the FDA Food Safety Modernization Act, Public Law 111–353. All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for OSHA in Secretary’s Order 4–2010, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

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).


(k) Safe Drinking Water Act, 42 U.S.C. 300–9(i).


(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.


(w) Affordable Care Act amendment to the Fair Labor Standards Act, 29 U.S.C. 218C; Authority and responsibility for section 18C of the FLSA (29 U.S.C. 218C) and the associated FLSA authorities in sections 9 and 11 (29 U.S.C. 209 and 211) to issue subpoenas and conduct investigations under section 18C are delegated and assigned to the Assistant Secretary for Occupational Safety and Health.

(x) Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203.

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 Occupational Safety and Health is also delegated authority and assigned responsibility for:

(a) Serving as Chairperson of the Federal Advisory Council on Occupational Safety and Health, as provided for by Executive Order 12196.

(b) Coordinating Agency efforts with those of other officials or agencies having responsibilities in the occupational safety and health area.

B. The Assistant Secretary for Occupational Safety and Health and the Administrator, Wage and Hour Division are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see paragraph 4.A.(2) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

C. The Solicitor of Labor is responsible for providing legal advice and assistance to all Department of Labor officials relating to implementation and administration of all aspects of this Order. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

D. The Commissioner of Labor Statistics is delegated authority and assigned responsibility for:

(1) Furthering the purpose of the Occupational Safety and Health Act by developing and maintaining an effective program of collection, compilation, analysis, and publication of occupational safety and health statistics consistent with applicable law and Secretary’s orders.

(2) Making grants to states or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics under Sections 18, 23, and 24 of the Occupational Safety and Health Act.

(3) Coordinating the above functions with the Assistant Secretary for Occupational Safety and Health.

E. The Regional Administrators for Occupational Safety and Health are also hereby delegated authority and assigned responsibility to issue subpoenas and conduct investigations under Sections 9 and 11 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209 and 211, in cases arising under section 18C of the FLSA, 29 U.S.C. 218C.

5. Reservation of Authority and Responsibility.

A. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed in paragraph 4.a. above is reserved to the Secretary.

B. No delegation of authority or assignment of responsibility under this order will be deemed to affect the Secretary’s authority to continue to exercise or further delegate such authority or responsibility.

C. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary’s Order 1–2010 (January 15, 2010).

6. Effective Date. This delegation of authority and assignment of responsibility is effective immediately.


Hilda L. Solis,
Secretary of Labor.

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