

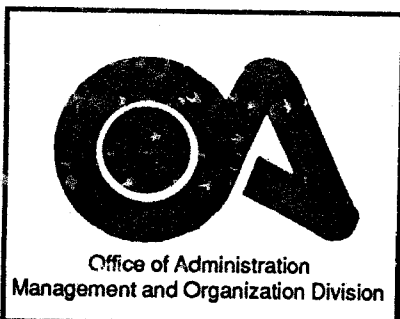
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Delegations of Authority — *P-195* What Managers Need to Know

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This Guide is designed to give you an overview of EPA's delegations of authority and to discuss your responsibility in managing delegated programs. A delegation of authority is defined as the Administrator's charge to senior Headquarters and Regional managers to carry out statutory and regulatory responsibilities on her behalf.

I. Background—Delegated Authority

There are 555+ delegations in the Agency's Delegations Manual. Delegations are important for two reasons. First, they are a legal record—documenting which Agency officials have authority to make decisions for the Administrator. Second, delegations are a management tool that establishes operating conditions among organizations and individuals as they carry out authorities.

Figure 1 shows the distribution of 555+ delegations throughout the Agency. Approximately 40% are held in Headquarters, 29% in the Regions and 31% shared by Headquarters and the Regions. Figure 1 also shows that EPA is a fairly decentralized Agency, with 60% of its delegations going either solely or on a shared basis to the Regions.

EPA's delegations tend to fall into one of several categories, such as enforcement actions, administrative decisions, state environmental agreements/approvals,

Distribution of EPA's Delegations

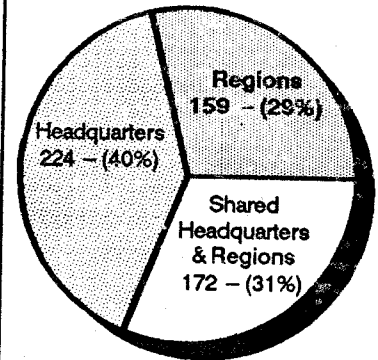


FIGURE 1 Based on data as of 3/10/93

certification/permits/registration decisions, and awarding grants and cooperative agreements. Figure 2 shows that the largest number of delegations result from the Clean Water Act and the Clean Air Act.

II. Delegated Authority vs. General Authority

It's important to note that a delegation of authority is not needed for all work that is performed by an office. **Delegated authority** generally refers to decision-making that flows directly from legislation or regulation. General authority stems from activities that an office does as a result of its functions, and can be found in functional and mission statements, operating guidance, and strategic plans.

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IV. Common Management Concerns

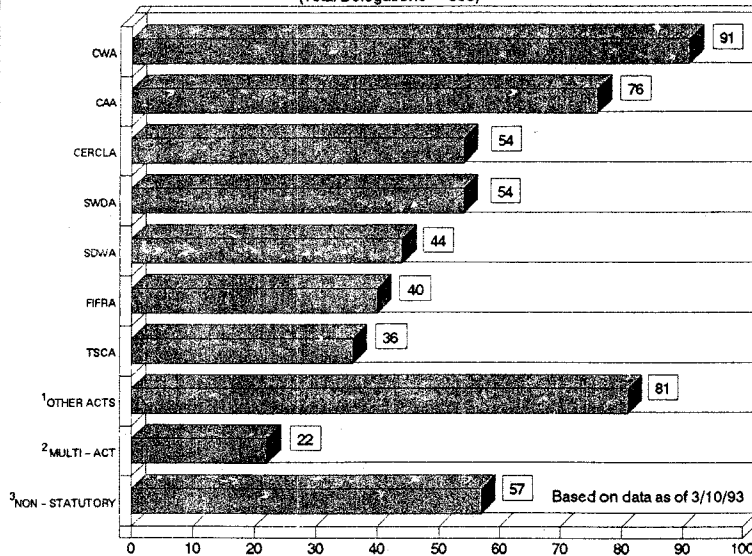
As managers, delegated authorities are an important part of the way you manage your organization and your programs. In addition to the technical and programmatic issues inherent in a delegation, you also need to be aware of some common management concerns.

(1) There is considerable disagreement about how to determine the lowest appropriate level for redelegation in a highly decentralized decision-making management structure.

- In EPA a significant amount of discretion and autonomy is held in the Regional offices. It is crucial to decide how much authority you wish to delegate to the Regions.
- The level of delegation sometimes receives Congressional interest. In general, Congress prefers to keep decisions and accountability at high levels in the Agency to ensure effective oversight.
- In contrast, recent AA/RA Forums, the National Performance Review, and individual Regions have raised issues suggesting a need for additional employee empowerment and autonomy in making decisions under delegated authority.

These tensions are symptomatic of the pull and tug in a centralized vs. decentralized management structure and are important for you to keep in mind as you make your delegation decisions.

Delegations Sorted By Act
(Total Delegations = 555)



¹**Other Acts:** Includes delegations from acts with fewer than 15 delegations. Acts included are: PPA, EPCRA, IRAA, MPRSA, NCA, & OAPCA.

²**Multi-Act:** Delegations use multiple statutory authorities and cannot be attributed to any one specific act.

³**Non-Statutory:** Includes delegations that are not based on legislation (i.e., General/Administrative delegations based on management decision-making protocol, Executive Orders, Federal Register Notices, etc.).

FIGURE 2

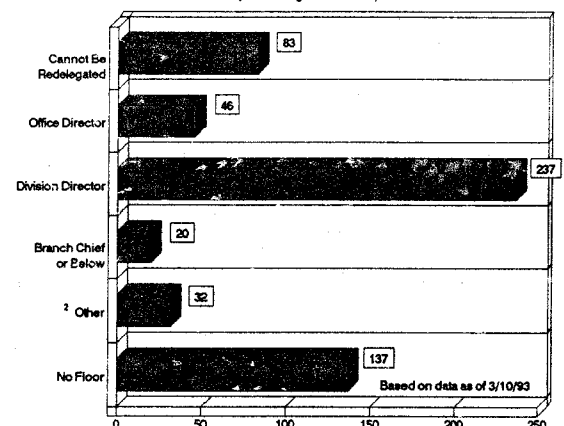
To put it simply, a general authority is an activity that an office performs—such as the analysis and work that is involved in reviewing a permit. A **delegated authority** is an accountable decision-making responsibility—such as approving or denying a permit.

III. Delegation Floors

An action can be redelegated to various levels in an organization, such as the Division Director or Branch Chief level. A delegation floor is the lowest level in an organization to which an action can be redelegated. This floor is written into the delegation as a specific authorized level. Delegates may choose to have actions actually carried out at a level above the authorized floor, but not below it.

As of March, 1993, the majority of delegations are authorized to be redelegated to the Division Director level (43%), followed by 25% with no floor identified, and 15% that cannot be redelegated. (In light of the Inspector General's concern about delegation floors, the Agency now identifies a floor on all delegations as they are written or revised.) Figure 3 indicates that Division Directors are the critical action and decision-making level for the majority of delegated Agency authorities.

Delegations Sorted By Floor¹
(Total Delegations = 555)



¹**Floor=** Lowest level to which a delegation can be redelegated, e.g., Branch Chief, Division Director.

²**Other=** Includes delegations with floors identified as On-Site Coordinators, National Program Managers, Senior Budget Officers, or Human Resources Officers.

FIGURE 3

DELEGATION PRINCIPLES & PHILOSOPHIES

EPA's delegation system is based on five core principles and philosophies:

(1) Act for the Administrator — Generally the Administrator only delegates to one or more senior officials reporting directly to her to act on her behalf. This means the AA/RAs, General Counsel, and Associate Administrators.

(2) Right to Exercise or Withdraw — The Administrator and other delegates always retain the right to exercise or withdraw a delegated authority at any time.

(3) Allocate Authority — Delegations allocate authority between the Regions and Headquarters, as well as among Headquarters Offices. As a way of deciding who should hold what authority, issues mainly affecting Regional or field offices are delegated to Regional Administrators, and issues that are multi-regional or of national significance generally remain with the Administrator or are delegated to senior officials at Headquarters.

(4) Authority at Lowest Level — When deciding to delegate authorities, consider the following:

- Review enabling legislation—sometimes it dictates the level of decision-making authority.

- Delegate an action to the lowest level that is appropriate for efficiency and effectiveness.

- Decide whether or not to redelegate authority to lower levels based on areas of responsibility, the staff's technical expertise, and political judgment, then delegate as close as possible to where the action takes place.

- Determine if an action has a high degree of importance and visibility and, if so, retain authority at an appropriate level capable of performing the task and making the appropriate technical, political and policy judgments.

- Determine whether full or partial authorization is needed based on the above criteria; decide who should exercise what parts of the authority; and what should not be delegated.

(5) Delegates Are Accountable — Regardless of the level to which an action is redelegated, you remain accountable for all decisions or actions taken by your redelegatees in exercising the authority. In the following chain of accountability, it is very important for you to understand the level at which delegated authorities are or should be exercised.

(2) Determining the appropriate level to carry out an authority is closely aligned with the notion of what restrictions or limitations should be placed upon officials as they carry out authorities. While limitations are used most frequently with enforcement delegations, the majority of EPA's delegations (approximately 64%) have no restrictions limiting how officials exercise the delegated authority (see Figure 4).

- Historically the Agency's Administrators, the recipients of delegations, and the Management and Organization Division (M&O) have strongly discouraged limitations because they undermine the accountability and effectiveness that a delegation is intended to provide. Limitations result in "phantom" delegations, meaning that the delegatee only appears to have the authority, but in reality it is held by the office or person who must ultimately approve the action.

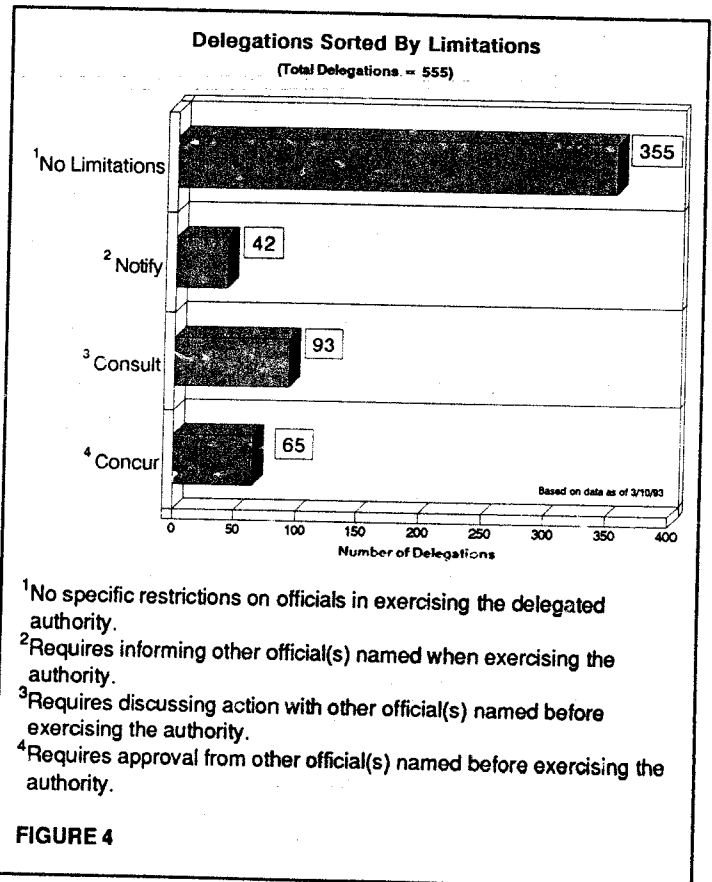
Although delegates want to receive authorities as unencumbered as possible, National Program Managers often want to maintain control or ensure national consistency by placing limitations in delegations.

- Limitations, when necessary, establish operating procedures between programs that must share delegated authority.
- EPA officials who have been given a delegated authority can only carry it out within the stated parameters of the limitations included in the delegation.

(3) Timing is an important issue in managing your delegations and programs. Delegation actions submitted at the last minute force an expedited review (or no review at all), limit input by essential parties

affected by the delegation, and create the potential for vulnerability when the delegation is exercised.

For example, regulations and permits are sometimes approved and ready to be carried out before an office realizes they do not have appropriate delegated authority to approve the action.



Delegations with limitations are separated into three types:

- Notify** requires the delegatee to *inform* another official(s) when exercising the authority. Notify is used in 21% of the delegations with limitations;
- Consult** requires that an action official *discuss* the action with another official(s) *before* exercising the authority. Consult is used in 46% of the delegations with limitations;
- Concur** is the most rigid of all limitations, is used in 33% of the delegations with limitations, and requires the delegatee to obtain the *approval* of another official(s) *before* exercising the authority.

(4) A delegation of authority should be considered an initial management step, not a final one. As a manager, you must also control delegations after they are redelegated. Several methods can be used:

- Consider crafting delegations to stipulate dollar levels or types of actions as a way of control rather than delegating broad authority or imposing unnecessary limitations. An example are dollar limits used with some grant or cooperative agreement delegations.
- Build a management infrastructure for your program using a mix of applicable program guidance, plans, evaluations, technical assistance, information sharing systems, and other mechanisms. Don't rely solely on delegations of authority for program management directions.
- Systematically review your delegations on a regular basis to make sure they are compatible with program objectives. Periodic program evaluations and conferences can help the National Program Manager assure that the entire program, including the exercise of delegated authority, is solid and consistent.
- Revise delegations as understanding and experience with the authority grows in the organization.
- Show confidence in the redelegation decisions you make. Once decisions are redelegated, it is important to demonstrate trust, integrity, and consistency toward redelegatees and the actions they take under the redelegations.
- Exercise a delegated authority yourself when it is appropriate for policy or political reasons to do so; and withdraw an authority if it is being improperly carried out.

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Before deciding to exercise or withdraw a delegation, explore alternatives and discuss your concerns with the redelegatee. Withdrawing a delegated authority should be used as a last resort after other alternatives are exhausted.

V. The Green Border Review Process

Before the Administrator approves a delegation of authority, it is circulated through the Agency's "Green Border" review process. This review process is the mechanism for the Administrator to receive the advice and counsel of her senior managers and to be sure that all legal or operational issues have been raised before she makes her decision. Green Border is also an Agencywide consensus-building process, and is managed by the Management and Organization Division (M&O) in the Office of Administration and Resources Management. Your staff has more detailed information about the Green Border review process.

VI. Conclusion

Delegations of authority are management tools that:

- (1) Ease the burden of obligations for which the Administrator is responsible by giving authority to senior managers to carry out actions on her behalf. By delegating these responsibilities to EPA senior officials, the Administrator has more time to address other pressing issues affecting the Agency; and
- (2) Provide a legal record of Agency officials who carry out authority on behalf of the Administrator. This becomes very important when EPA actions are challenged in court.

If you are interested in learning about specific delegations in your program, please consult the M&O Management Analyst for your organization ((202) 260-5000) who will be happy to assist you.

