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WITHDRAWAL SHEET

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Withdrawer

CAS 3/29/2005

File Folder [PEAD 22 AND PEAD 5 - PRESIDENTIAL EMERGENCY ACTION DOCUMENT] (BINDER) (1)

FOIA

F05-071

Box Number 3

ETLER

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
6471	COVER SHEET	FOR PEAD 22 (TAB 22) (PP. 22A-22B)	2	ND	B1	B2
6473	NOTE	FOR COVER SHEET FOR PEAD 22 (TAB 22)	2	ND	B1	B2
6475	EXECUTIVE ORDER	DRAFT EO (TAB 22) (PP. 22-1 THRU 22-3)	3	ND	B1	B2
6476	COMMENTS	FOR THE NSC RE PEAD 22 (TAB 22)	3	ND	B1	B2
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6478	COMMENTS	FOR THE NSC RE PEAD 5 (TAB 5 - COVER PAGE TABLE OF CONTENTS; TAB A - PP. 1; TAB B - PP. 2-4; TAB C - PP. 5-14; TAB D - PP. 15-45; TAB E -PP. 46-48)	52	5/1/1986	B1	B2

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

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§ 301. General authorization to delegate functions; publication of delegations

The President of the United States is authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform only with or subject to the approval, ratification, or other action of the President: *Provided*, That nothing contained herein shall relieve the President of his responsibility in office for the acts of any such head or other official designated by him to perform such functions. Such designation and authorization shall be in writing, shall be published in the Federal Register, shall be subject to such terms, conditions, and limitations as the President may deem advisable, and shall be revocable at any time by the President in whole or in part.

(Added Oct. 31, 1951, c. 655, § 10, 65 Stat. 712.)

§ 302. Scope of delegation of functions

The authority conferred by this chapter shall apply to any function vested in the President by law if such law does not affirmatively prohibit delegation of the performance of such function as herein provided for, or specifically designate the officer or officers to whom it may be delegated. This chapter shall not be deemed to limit or derogate from any existing or inherent right of the President to delegate the performance of functions vested in him by law, and nothing herein shall be deemed to require express authorization in any case in which such an official would be presumed in law to have acted by authority or direction of the President.

(Added Oct. 31, 1951, c. 655, § 10, 65 Stat. 713.)

§ 303. Definitions

As used in this chapter, the term "function" embraces any duty, power, responsibility, authority, or discretion vested in the President or other officer concerned, and the terms "perform" and "performance" may be construed to mean "exercise".

(Added Oct. 31, 1951, c. 655, § 10, 65 Stat. 713.)

§ 606. War powers of President

(a) During the continuance of a war in which the United States is engaged, the President is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

(b) It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or re-

tardation of communication: *Provided*, That nothing in this section shall be construed to repeal, modify, or affect either section 17 of Title 15 or section 52 of Title 29.

(c) Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

(d) Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

(e) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further

sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 29 of section 41 of Title 28, or by section 250 of Title 28.

(f) Nothing in subsection (c) or (d) of this section shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by any communication system or systems.

(g) Nothing in subsection (c) or (d) of this section shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection (d) of this section shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.

(h) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both. June 19, 1931, c. 652, Title VI, § 606, 48 Stat. 1104; Jan. 26, 1942, c. 18, §§ 1, 2, 56 Stat. 18; Dec. 29, 1942, c. 836, 56 Stat. 1096; July 25, 1947, c. 327, § 1, 61 Stat. 449; Oct. 24, 1951, c. 553, §§ 1, 2, 65 Stat. 611.

PRESERVATION COPY

50 U.S.C. 1601-1651

(THE NATIONAL EMERGENCIES ACT)

FOIA(b) (7)



EXECUTIVE ORDER NO. 12472

Apr. 3, 1984, 49 F.R. 13471

ASSIGNMENT OF NATIONAL SECURITY AND EMERGENCY PREPAREDNESS
TELECOMMUNICATIONS FUNCTIONS

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Communications Act of 1934, as amended (47 U.S.C. 151) [section 151 et seq. of Title 47, Telegraphs, Telephones and Radio-telegraphs], the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061) [section 2061 et seq. of this Appendix], the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251) [section 2251 et seq. of this Appendix], the Disaster Relief Act of 1974 (42 U.S.C. 5121) [section 5121 of Title 42, Public Health and Welfare], Section 5 of Reorganization Plan No. 1 of 1977 (3 C.F.R. 197, 1978 Comp.) [see Appendix 1 to Title 5, Government Organization and Employees], and Section 203 of Reorganization Plan No. 3 of 1978 (3 C.F.R. 389, 1978 Comp.) [see Appendix 1 to Title 5, Government Organization and Employees], and in order to provide for the consolidation of assignment and responsibility for improved execution of national security and emergency preparedness telecommunications functions, it is hereby ordered as follows:

Section 1. The National Communications System. (a) There is hereby established the National Communications System (NCS). The NCS shall consist of the telecommunications assets of the entities represented on the NCS Committee of Principals and an administrative structure consisting of the Executive Agent, the NCS Committee of Principals and the Manager. The NCS Committee of Principals shall consist of representatives from those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and, to the extent permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security or emergency preparedness telecommunications capabilities.

(b) The mission of the NCS shall be to assist the President, the National Security Council, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget in:

(1) the exercise of the telecommunications functions and responsibilities set forth in Section 2 of this Order; and

(2) the coordination of the planning for and provision of national security and emergency preparedness communications for the Federal government under all circumstances, including crisis or emergency, attack, recovery and reconstitution.

(c) The NCS shall seek to ensure that a national telecommunications infrastructure is developed which:

(1) Is responsive to the national security and emergency preparedness needs of the President and the Federal departments, agencies and other entities, including telecommunications in support of national security leadership and continuity of government;

(2) Is capable of satisfying priority telecommunications requirements, under all circumstances through use of commercial, government and privately owned telecommunications resources;

(3) Incorporates the necessary combination of hardness, redundancy, mobility, connectivity, interoperability, restorability and security to obtain, to the maximum extent practicable, the survivability of national security and emergency preparedness telecommunications in all circumstances, including conditions of crisis or emergency; and

(4) Is consistent, to the maximum extent practicable, with other national telecommunications policies.

(d) To assist in accomplishing its mission, the NCS shall:

(1) serve as a focal point for joint industry-government national security and emergency preparedness telecommunications planning; and

(2) establish a joint industry-government National Coordinating Center which is capable of assisting in the initiation, coordination, restoration and reconstitution of national security or emergency preparedness telecommunications services or facilities under all conditions of crisis or emergency.

(e) The Secretary of Defense is designated as the Executive Agent for the NCS. The Executive Agent shall:

(1) Designate the Manager of the NCS;

(2) Ensure that the NCS conducts unified planning and operations, in order to coordinate the development and maintenance of an effective and responsive capability for meeting the domestic and international national security and emergency preparedness telecommunications needs of the Federal government;

(3) Ensure that the activities of the NCS are conducted in conjunction with the emergency management activities of the Federal Emergency Management Agency;

(4) Recommend, in consultation with the NCS Committee of Principals, to the National Security Council, the Director of the Office of Science and

Technology Policy, or the Director of the Office of Management and Budget, as appropriate:

a. The assignment of implementation or other responsibilities to NCS member entities;

b. New initiatives to assist in the exercise of the functions specified in Section 2; and

c. Changes in the composition or structure of the NCS;

(5) Oversee the activities of and provide personnel and administrative support to the Manager of the NCS;

(6) Provide staff support and technical assistance to the National Security Telecommunications Advisory Committee established by Executive Order No. 12382, as amended; and

(7) Perform such other duties as are from time to time assigned by the President or his authorized designee.

(f) The NCS Committee of Principals shall:

(1) Serve as the forum in which each member of the Committee may review, evaluate, and present views, information and recommendations concerning ongoing or prospective national security or emergency preparedness telecommunications programs or activities of the NCS and the entities represented on the Committee;

(2) Serve as the forum in which each member of the Committee shall report on and explain ongoing or prospective telecommunications plans and programs developed or designed to achieve national security or emergency preparedness telecommunications objectives;

(3) Provide comments or recommendations, as appropriate, to the National Security Council, the Director of the Office of Science and Technology Policy, the Director of the Office of Management and Budget, the Executive Agent, or the Manager of the NCS, regarding ongoing or prospective activities of the NCS; and

(4) Perform such other duties as are from time to time assigned by the President or his authorized designee.

(g) The Manager of the NCS shall:

(1) Develop for consideration by the NCS Committee of Principals and the Executive Agent:

a. A recommended evolutionary telecommunications architecture designed to meet current and future Federal government national security and emergency preparedness telecommunications requirements;

b. Plans and procedures for the management, allocation and use, including the establishment of priorities or preferences, of Federally owned or leased telecommunications assets under all conditions of crisis or emergency;

c. Plans, procedures and standards for minimizing or removing technical impediments to the interoperability of government-owned and/or commercially-provided telecommunications systems;

d. Test and exercise programs and procedures for the evaluation of the capability of the Nation's telecommunications resources to meet national security or emergency preparedness telecommunications requirements; and

e. Alternative mechanisms for funding, through the budget review process, national security or emergency preparedness telecommunications

initiatives which benefit multiple Federal departments, agencies, or entities. Those mechanisms recommended by the NCS Committee of Principals and the Executive Agent shall be submitted to the Director of the Office of Management and Budget.

(2) Implement and administer any approved plans or programs as assigned, including any system of priorities and preferences for the provision of communications service, in consultation with the NCS Committee of Principals and the Federal Communications Commission, to the extent practicable or otherwise required by law or regulation;

(3) Chair the NCS Committee of Principals and provide staff support and technical assistance thereto;

(4) Serve as a focal point for joint industry-government planning, including the dissemination of technical information, concerning the national security or emergency preparedness telecommunications requirements of the Federal government;

(5) Conduct technical studies or analyses, and examine research and development programs, for the purpose of identifying, for consideration by the NCS Committee of Principals and the Executive Agent, improved approaches which may assist Federal entities in fulfilling national security or emergency preparedness telecommunications objectives;

(6) Pursuant to the Federal Standardization Program of the General Services Administration, and in consultation with other appropriate entities of the Federal government including the NCS Committee of Principals, manage the Federal Telecommunications Standards Program, ensuring wherever feasible that existing or evolving industry, national, and international standards are used as the basis for Federal telecommunications standards; and

(7) Provide such reports and perform such other duties as are from time to time assigned by the President or his authorized designee, the Executive Agent, or the NCS Committee of Principals. Any such assignments of responsibility to, or reports made by, the Manager shall be transmitted through the Executive Agent.

Sec. 2. Executive Office Responsibilities. (a) Wartime Emergency Functions. (1) The National Security Council shall provide policy direction for the exercise of the war power functions of the President under Section 606 of the Communications Act of 1934, as amended (47 U.S.C. 606) [section 606 of Title 47, Telegraphs, Telephones and Radiotelegraphs], should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601) [section 1601 et seq. of this title].

(2) The Director of the Office of Science and Technology Policy shall direct the exercise of the war power functions of the President under Section 606(a), (c)-(e), of the Communications Act of 1934, as amended (47 U.S.C. 606) [section 606 of Title 47], should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601) [section 1601 et seq. of this title].

(b) Non-Wartime Emergency Functions. (1) The National Security Council shall:

a. Advise and assist the President in coordinating the development of policy, plans, programs

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and standards within the Federal government for the identification, allocation, and use of the Nation's telecommunications resources by the Federal government, and by State and local governments, private industry and volunteer organizations upon request, to the extent practicable and otherwise consistent with law, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law; and

b. Provide policy direction for the exercise of the President's non-wartime emergency telecommunications functions, should the President so instruct.

(2) The Director of the Office of Science and Technology Policy shall provide information, advice, guidance and assistance, as appropriate, to the President and to those Federal departments and agencies with responsibilities for the provision, management, or allocation of telecommunications resources, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law.

(3) The Director of the Office of Science and Technology Policy shall establish a Joint Telecommunications Resources Board (JTRB) to assist him in the exercise of the functions specified in this subsection. The Director of the Office of Science and Technology Policy shall serve as chairman of the JTRB; select those Federal departments, agencies, or entities which shall be members of the JTRB; and specify the functions it shall perform.

(c) Planning and Oversight Responsibilities. (1) The National Security Council shall advise and assist the President in:

a. Coordinating the development of policy, plans, programs and standards for the mobilization and use of the Nation's commercial, government, and privately owned telecommunications resources, in order to meet national security or emergency preparedness requirements;

b. Providing policy oversight and direction of the activities of the NCS; and

c. Providing policy oversight and guidance for the execution of the responsibilities assigned to the Federal departments and agencies by this Order.

(2) The Director of the Office of Science and Technology Policy shall make recommendations to the President with respect to the test, exercise and evaluation of the capability of existing and planned communications systems, networks or facilities to meet national security or emergency preparedness requirements and report the results of any such tests or evaluations and any recommended remedial actions to the President and to the National Security Council;

(3) The Director of the Office of Science and Technology Policy or his designee shall advise and assist the President in the administration of a system of radio spectrum priorities for those spectrum dependent telecommunications resources of the Federal government which support national security or emergency preparedness functions. The Director also shall certify or approve priorities for radio spectrum use by the Federal government, including the resolution of any conflicts in or among priorities, under all conditions of crisis or emergency; and

(4) The National Security Council, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget shall, in consultation with the Executive Agent for the NCS and the NCS Committee of Principals, determine what constitutes national security and emergency preparedness telecommunications requirements.

(d) Consultation with Federal Departments and Agencies. In performing the functions assigned under this Order, the National Security Council and the Director of the Office of Science and Technology Policy, in consultation with each other, shall:

(1) Consult, as appropriate, with the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency with respect to the emergency management responsibilities assigned pursuant to Executive Order No. 12148 [set out as a note under this section], as amended; the Secretary of Commerce, with respect to responsibilities assigned pursuant to Executive Order No. 12046 [set out as a note under section 305 of Title 47]; the Secretary of Defense, with respect to communications security responsibilities assigned pursuant to Executive Order No. 12333 [set out as a note under section 401 of this title]; and the Chairman of the Federal Communications Commission or his authorized designee; and

(2) Establish arrangements for consultation among all interested Federal departments, agencies or entities to ensure that the national security and emergency preparedness communications needs of all Federal government entities are identified; that mechanisms to address such needs are incorporated into pertinent plans and procedures; and that such needs are met in a manner consistent, to the maximum extent practicable, with other national telecommunications policies.

(e) Budgetary Guidelines. The Director of the Office of Management and Budget, in consultation with the National Security Council and the NCS, will prescribe general guidelines and procedures for reviewing the financing of the NCS within the budgetary process and for preparation of budget estimates by participating agencies. These guidelines and procedures may provide for mechanisms for funding, through the budget review process, national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities.

Sec. 3. Assignment of Responsibilities to Other Departments and Agencies. In order to support and enhance the capability to satisfy the national security and emergency preparedness telecommunications needs of the Federal government, State and local governments, private industry and volunteer organizations, under all circumstances including those of crisis or emergency, the Federal departments and agencies shall perform the following functions:

(a) Department of Commerce. The Secretary of Commerce shall, for all conditions of crisis or emergency: (1) Develop plans and procedures concerning radio spectrum assignments, priorities and allocations for use by Federal departments, agencies and entities; and

(2) Develop, maintain and publish policy, plans, and procedures for the control and allocation of frequency assignments, including the au-

thority to amend, modify or revoke such assignments, in those parts of the electromagnetic spectrum assigned to the Federal government.

(b) Federal Emergency Management Agency. The Director of the Federal Emergency Management Agency shall:

(1) Plan for and provide, operate and maintain telecommunications services and facilities, as part of its National Emergency Management System, adequate to support its assigned emergency management responsibilities;

(2) Advise and assist State and local governments and volunteer organizations, upon request and to the extent consistent with law, in developing plans and procedures for identifying and satisfying their national security or emergency preparedness telecommunications requirements;

(3) Ensure, to the maximum extent practicable, that national security and emergency preparedness telecommunications planning by State and local governments and volunteer organizations is mutually supportive and consistent with the planning of the Federal government; and

(4) Develop, upon request and to the extent consistent with law and in consonance with regulations promulgated by and agreements with the Federal Communications Commission, plans and capabilities for, and provide policy and management oversight of, the Emergency Broadcast System, and, advise and assist private radio licensees of the Commission in developing emergency communications plans, procedures and capabilities.

(c) Department of State. The Secretary of State, in accordance with assigned responsibilities within the Diplomatic Telecommunications System, shall plan for and provide, operate and maintain rapid, reliable and secure telecommunications services to those Federal entities represented at United States diplomatic missions, and consular offices overseas. This responsibility shall include the provision and operation of domestic telecommunications in support of assigned national security or emergency preparedness responsibilities.

(d) Department of Defense. In addition to the other responsibilities assigned by this Order, the Secretary of Defense shall:

(1) Plan for and provide, operate and maintain telecommunications services and facilities adequate to support the National Command Authorities and to execute the responsibilities assigned by Executive Order No. 12333 (set out as a note under section 401 of this title); and

(2) Ensure that the Director of the National Security Agency provides the technical support necessary to develop and maintain plans adequate to provide for the security and protection of national security and emergency preparedness telecommunications.

(e) Department of Justice. The Attorney General shall, as necessary, review for legal sufficiency, including consistency with the antitrust laws, all policies, plans or procedures developed pursuant to responsibilities assigned by this Order.

(f) Central Intelligence Agency. The Director of Central Intelligence shall plan for and provide, operate, and maintain telecommunications services adequate to support its assigned responsibilities, including the dissemination of intelligence within the Federal government.

(g) General Services Administration. Except as otherwise assigned by this Order, the Administrator of General Services, consistent with policy guidance provided by the Director of the Office of Management and Budget, shall ensure that Federally owned or managed domestic communications facilities and services meet the national security and emergency preparedness requirements of the Federal Civilian departments, agencies and entities.

(h) Federal Communications Commission. The Federal Communications Commission shall, consistent with Section 4(c) of this Order:

(1) Review the policies, plans and procedures of all entities licensed or regulated by the Commission that are developed to provide national security or emergency preparedness communications services, in order to ensure that such policies, plans and procedures are consistent with the public interest, convenience and necessity;

(2) Perform such functions as required by law with respect to all entities licensed or regulated by the Commission, including (but not limited to) the extension, discontinuance or reduction of common carrier facilities or services; the control of common carrier rates, charges, practices and classifications; the construction, authorization, activation, deactivation or closing of radio stations, services and facilities; the assignment of radio frequencies to Commission licensees; the investigation of violations of pertinent law and regulation; and the initiation of appropriate enforcement actions;

(3) Develop policy, plans and procedures adequate to execute the responsibilities assigned in this Order under all conditions or crisis or emergency; and

(4) Consult as appropriate with the Executive Agent for the NCS and the NCS Committee of Principals to ensure continued coordination of their respective national security and emergency preparedness activities.

(i) All Federal departments and agencies, to the extent consistent with law (including those authorities and responsibilities set forth in Section 4(c) of this Order), shall:

(1) Determine their national security and emergency preparedness telecommunications requirements, and provide information regarding such requirements to the Manager of the NCS;

(2) Prepare policies, plans and procedures concerning telecommunications facilities, services or equipment under their management or operational control to maximize their capability of responding to the national security or emergency preparedness needs of the Federal government;

(3) Provide, after consultation with the Director of the Office of Management and Budget, resources to support their respective requirements for national security and emergency preparedness telecommunications and provide personnel and staff support to the Manager of the NCS as required by the President;

(4) Make information available to, and consult with, the Manager of the NCS regarding agency telecommunications activities in support of national security or emergency preparedness;

(5) Consult, consistent with the provisions of Executive Order No. 12046 (set out as a note under section 305 of Title 47), as amended, and in

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conjunction with the Manager of the NCS, with the Federal Communications Commission regarding execution of responsibilities assigned by this Order;

(6) Submit reports annually, or as otherwise requested, to the Manager of the NCS, regarding agency national security or emergency preparedness telecommunications activities; and

(7) Cooperate with and assist the Executive Agent for the NCS, the NCS Committee of Principals, the Manager of the NCS, and other departments and agencies in the execution of the functions set forth in this Order, furnishing them such information, support and assistance as may be required.

(j) Each Federal department or agency shall execute the responsibilities assigned by this Order in conjunction with the emergency management activities of the Federal Emergency Management Agency, and in regular consultation with the Executive Agent for the NCS and the NCS Committee of Principals to ensure continued coordination of NCS and individual agency telecommunications activities.

Sec. 4. General Provisions. (a) All Executive departments and agencies may issue such rules and regulations as may be necessary to carry out the functions assigned under this Order.

(b) In order to reflect the assignments of responsibility provided by this Order,

(1) Sections 2-414, 4-102, 4-103, 4-202, 4-302, 5-3, and 6-101 of Executive Order No. 12046 [set out as a note under section 305 of Title 47], as amended, are revoked;

(2) The Presidential Memorandum of August 21, 1963, as amended, entitled "Establishment of the National Communications System", is hereby superseded; and

(3) Section 2-411 of Executive Order No. 12046 [set out as a note under section 305 of Title 47], as amended, is further amended by deleting the period and inserting ", except as otherwise provided by Executive Order No.," and inserting the number assigned to this Order.

(c) Nothing in this Order shall be deemed to affect the authorities or responsibilities of the Director of the Office of Management and Budget, or any Office or official thereof; or reassign any function assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended; or under any other law; or any function vested by law in the Federal Communications Commission.

Sec. 5. This Order shall be effective upon publication in the Federal Register.

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PART 201—EXECUTIVE POLICY AND RESPONSIBILITIES

Sec.

201.0 Background.

201.1 Authority.

201.2 Definitions.

201.3 Policy.

201.4 Responsibilities.

AUTHORITY: 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349 *et seq.*).

SOURCE: 44 FR 33404, June 11, 1979, unless otherwise noted.

§ 201.0 Background.

(a) National policy with respect to the conservation, allocation, and use of the Nation's resources during a general war emergency, including nuclear attack upon the United States (hereinafter referred to as a national emergency), is set forth in the National Plan for Emergency Preparedness, developed within the Executive Office of the President in 1963 and revised in 1964. Successor Administrations have retained and endorsed the plan as the basic official national policy document.

(b) Chapter 7 of the plan (Telecommunications) sets forth substantive policy guidance for Federal, State, and local government emergency preparedness planning and establishes the interrelationship of levels of government with respect to development and execution of emergency preparedness plans.

(c) Following parts of this chapter will address specific responsibilities with respect to management of telecommunications resources and related procedures which bear upon provision, restoration, and continuity of communications services during a national emergency.

§ 201.1 Authority.

(a) Authorities and responsibilities related to and bearing upon national security and emergency preparedness telecommunications matters are set forth in:

(1) The Communications Act of 1934 (48 Stat. 1104, 47 U.S.C. 606), as amended.

(2) The National Security Act of 1947 (61 Stat. 496, 50 U.S.C. 402), as amended by the National Security Act Amendments of 1949 (63 Stat. 579, 50 U.S.C. 401 *et seq.*)

(3) The Presidential Memorandum of August 21, 1963, "Establishment of a National Communications System" (28 FR 9413, 3 CFR 1959-1963 comp., page 858).

(4) The Disaster Relief Act of 1974 (42 U.S.C. 5121 *et seq.*).

(5) The National Science and Technology Policy, Organization, and Priorities Act of 1976 (90 Stat. 463, 42 U.S.C. 6611).

(6) Executive Order 12046, "Relating to the Transfer of Telecommunications Functions," March 27, 1978, (43 FR 13349 *et seq.*)

(b) Authorities to be exercised in the execution and performance of emergency functions are subject to the provisions of the National Emergencies Act of 1976 (90 Stat. 1255, 50 U.S.C. 1601).

[44 FR 33404, June 11, 1979; 44 FR 47773, Aug. 15, 1979]

§ 201.2 Definitions.

The following definitions apply herein:

(a) "Telecommunications" means any transmission, emission, or reception of signs, signals, writing, images, graphics, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

(b) "Telecommunications resources" include telecommunications personnel, equipment, material, facilities, systems, and services, public and private, wherever located within the jurisdiction of the United States.

(c) "Communications common carrier", "specialized carrier", or "carrier" means any individual, partnership, association, joint stock company, trust, or corporation subject to Federal or State regulation engaged in provided telecommunications facilities or services, for use by the public, for hire.

(d) "Government" means Federal, State, county, municipal, and other local government authority. Specific qualification will be provided whenever reference to a particular level of government is intended.

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(e) "Private sector" means those sectors of nongovernment entities engaged in private enterprise, public services, and the general public, as users of telecommunications services.

(f) "National priorities" means those essential actions and activities in which the government and the private sector must become engaged in the interests of national survival and recovery.

(g) "The National Communications System (NCS)" means that system which was established by Presidential Memorandum of August 21, 1963, "Establishment of a National Communications System." It is a confederative arrangement in which certain Federal agencies participate with their owned and leased telecommunications assets to provide necessary communications services for the Federal Government, under all conditions, including nuclear war.

§ 201.3 Policy.

(a) The Federal Government is basically responsible for resources mobilization, including determination of the need for and the extent of mobilization necessary in all national emergencies.

(b) In an immediate postattack period all decisions regarding the use of resources will be directed to the objective of national survival and recovery. In order to achieve this objective, postattack resources will be assigned to activities concerned with the maintenance and saving of lives, immediate military defense, and economic activities essential to continued economic survival and recovery.

(c) The President is authorized, if he finds it necessary in the interest of national defense and security, to direct that such telecommunications, as in his judgment may be essential, shall have precedence or priority with any carrier subject to the Communications Act of 1934, as amended. The President may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them, and for any such purpose, is authorized to issue orders directly, or through such person or persons designated for the purpose, or through

the Federal Communications Commission.

(d) Federal, State, and local governments are to share the responsibility for conservation of the Nation's telecommunications resources. Although the President has responsibility for establishing national objectives, local conditions and relative urgency would determine the order and level of precedence within priorities.

(1) The achievement of survival and recovery would establish an unavoidable interdependence between and among Federal, State, and local authorities; therefore, there should be no barriers between these levels of authorities which would impede, obstruct, or otherwise hinder effective conservation and equitable allocation of resource and services to the needs of the Nation.

(2) The Federal Government will rely upon State governments and their telecommunications management organizations for management or control of intrastate carrier services and continuity of interconnectivity with interstate carriers to assure that national objectives and priorities are properly served.

(e) There will be a central authority within the Federal Government to control, coordinate, and direct the activities of the Nation's telecommunications facilities, systems, and services.

(f) Telecommunications resources of the Federal Government will be employed, as required, to best serve the continuity of government and national interests.

(g) A system of communications services priorities will be established which will facilitate early restoration of services considered vital to national interests.

(h) There will be a precedence system for the expeditious handling of telephone calls, messages, and data transmission via government and public correspondence facilities.

(i) Federal agencies will, in the development of emergency operational plans, minimize, to the extent feasible, dependence upon telecommunications services for continuity of essential operations.

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§ 201.4 Responsibilities.

Executive responsibilities with respect to emergency preparedness and readiness in telecommunications matters are established and assigned as follows:

(a) The National Security Council (NSC).

(1) Coordinating the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency.

(2) Preparation of Presidential policy options concerning the development of the National Communications System (NCS).

(b) The Director, Office of Science and Technology Policy (OSTP).

(1) Preparation of Presidential policy options with respect to the evaluation of existing and planned communications systems to meet national security and emergency preparedness requirements in the provision of essential communications services.

PART 202—EMERGENCY PREPAREDNESS PLANNING AND EXECUTION

Sec.

202.0 Objectives.

202.1 Policies.

202.2 Criteria and guidance.

202.3 Plans preparation and execution.

AUTHORITY: 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349 *et seq.*).

SOURCE: 44 FR 33405, June 11, 1979, unless otherwise noted.

§ 202.0 Objectives.

In the event of a general war and attack upon the Nation a national telecommunications services capability must exist to support critical needs and functions with respect to national security, survival, and recovery. Emergency preparedness must provide for, among other things:

(a) A radio and television broadcasting capability for the President to address the people of the Nation and for State and local authorities to inform, instruct, and direct jurisdictional populations in civil defense matters.

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(b) A central mechanism to control, coordinate, and direct the activities of the various telecommunications facilities, systems, and services.

(c) Emergency programs for the most efficient use of surviving telecommunications resources and plans for establishing or activating vital emergency telecommunications facilities, systems, and services with minimum delay.

(d) Procedures for management of telecommunications resources including controlled restoration of services to assure that most vital and critical services are afforded precedence.

(e) A central mechanism to guide and assist in long range planning for reconstitution of the Nation's telecommunications systems in the postattack period.

(f) Survivability of essential telecommunications feasible within the constraints of justifiable costs.

(g) A capability to accomplish rapid damage assessment and decision making with respect to residual resources.

(h) Technical compatibility of signaling methods, transmission modes, switching facilities, and terminal devices to permit interexchange of communications over the surviving media of all systems, government or commercial.

(i) Plans for succession of positions of authority throughout government and industry.

§ 202.1 Policies.

(a) The telecommunications resources of the Nation will be available for use of government during a national emergency and to satisfy the needs of public welfare and safety. There will be a single point of authority within the Federal Government with respect to the allocation and use of surviving resources in support of national objectives enunciated by the President. Authority may be redelegated as necessary and when it can be exercised within boundaries established by Presidential authority.

(b) Facilities management will remain decentralized to the extent feasible to assure continued flexibility of operational response to critical

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needs, subject to the management direction and overriding authority of those officials delegated to act for and with the consent of the central point of authority within the Federal Government.

(1) Federally owned, leased, and/or operated telecommunications facilities, systems, and networks will be managed during an emergency by the agency normally controlling the facility, system, or network except that all operations will be subject to the management direction and authority of the officials delegated overall management responsibility for Federal Government systems.

(2) Facilities other than those of the Federal Government, with the exception of radio stations in the Aviation Services and certain classes of radio stations in the Maritime Services, will be managed by the common carrier licensee or other person owning and operating such facilities, subject to Federal Communications Commission (FCC) guidance and direction or in accordance with State or local plans if an intrastate licensee.

(3) Radio stations in the Aviation Services and those aboard vessels in the Maritime Service will be subject to the control of the Secretary of Defense during a national emergency.

(c) Radio frequency utilization during a national emergency will be in accordance with authorizations, assignments, and mobilization plans in existence at the onset of the emergency subject to the overriding control of the central point of authority in the Federal Government for telecommunications matters.

(d) Radio stations are subject to closure if considered a threat to national security.

(e) Section 606 of the Communications Act of 1934, as amended, confers authority to the President in the matter of suspension of all rules and regulations pertaining to the use and operation of telecommunications facilities, public or private. That authority would be exercised only if such action were clearly required by national interest and after all reasonable alternatives had been examined and deemed inadequate.

(44 FR 33405, June 11, 1979; 44 FR 47773; Aug. 15, 1979)

§ 202.2 Criteria and guidance.

Emergency preparedness planning in government and industry with respect to effective conservation and use of surviving telecommunications resources in a postattack period must provide for orderly and uninhibited restoration of intercity services by the carriers and authoritative control of services allocation which will assure that precedence will be afforded the most critical needs of government and the private sector with respect to these objectives.

(a) The preservation of the integrity of characteristics and capabilities of the Nation's telecommunications systems and networks during a national emergency is of the utmost importance. This can best be accomplished by centralized policy development, planning, and broad direction. Detailed operations management will remain decentralized in order to retain flexibility in the use of individual systems in responding to the needs of national security, survival, and recovery. Each Federal agency responsible for telecommunications systems operations, and the carriers, are responsible for planning with respect to emergency operations. Guidance in this matter has been issued from a number of sources and contained in:

(1) Annex C-XI (Telecommunications), Federal Emergency Plan D (Classified).

(2) The Federal Communications Commission (FCC) Industrial Communications Emergency Plan (ICEP) Basic.

(3) The National Communications System Management Plan for Annex C-XI (Telecommunications) Federal Emergency Plan D (Classified).

(b) The continuity of essential communications services will be maintained through the use of controls and operational procedures to assure that precedence is given to vital services. Emergency preparedness with respect to telecommunications services will provide for, but is not limited to:

(1) A precedence system for public correspondence services.

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(2) A circuit restoration priority system.

(3) Preemption authority.

(4) Control of access to common user networks, public and private.

(5) Allocation of private line services and channel time by competent authority.

(c) The Nation's telecommunications systems facilities are vulnerable to physical and radiological damage. Planning factors with respect to the resumption of intercity services in a postattack period must consider the probable loss of facilities which formerly provided direct and/or alternate intercity services between surviving population centers. Since surviving areas and population centers would serve as the sources of support to crippled areas of the Nation, the resumption of intercity services between and among surviving metropolitan areas will be of the highest priority with the carriers. The order of precedence of actions to effect intercity services restoration set forth in the following will not be modified except upon direction of the central point of authority in telecommunications matters.

(1) Establishment of coordination circuits between carrier offices.

(2) Restoration of multichannel intercity links.

(3) Restoration of vital private line services to government and the private sector.

(4) Reestablishment of public correspondence (toll) service to the extent that it will not interfere with essential private line services.

NOTE: Recognizing that intercity public correspondence circuits may be needed for the transmission of precedence type message and calls (see Part 213 of this chapter) the communications carriers will provide for the restoration of a minimum number of such circuits when restoring multichannel intercity facilities. The carriers will notify the FCC and the Manager, NCS, in event that such restoration would interfere with the restoration of certified priority services (see Part 211 of this chapter). Reestablishment of additional public correspondence (toll) service may proceed to the extent feasible within the restrictions set forth in paragraph (c)(4) of this section.

[44 FR 33405, June 11, 1979; 44 FR 47773, Aug. 15, 1979]

§ 202.3 Plans preparation and execution.

National objectives and interests with respect to security, survival, and recovery during a national emergency may subjugate proprietary interests in any telecommunications facility, system, or network. Therefore, emergency preparedness resources management planning is oriented to a perceived need for purposeful and authoritative control of surviving resources. Federal authority, substantive provisions, and functional responsibilities set forth in the planning documents identified in § 202.2, preceding, are summarized in the following:

(a) Central Federal authority with respect to telecommunications resource management has been delegated, by Executive Order, to the Director, Office of Science and Technology Policy (OSTP). In this functional role, the Director:

(1) Will prepare to exercise the emergency war powers of the President granted by Sec. 606 (a), (c), and (d) of the Communications Act of 1934, as amended.

(2) Will prepare to execute, if necessary, the emergency authorities which may be delegated by the Director, Office of Defense Resources (ODR).

(3) Will report direct to the President, or his designated representative, on the status of telecommunications and provide recommendations with respect to telecommunications and national priorities.

(4) Will provide general or specific guidance to Federal agencies and State governments with respect to the use of telecommunications in civil defense and for other purposes of common interest to Federal and State governments.

(b) Performance of essential government and public services during a national emergency will require a means for communications between government and the people, communications essential to operations of elements of the national economy, and communications for national defense and civil defense purposes. The needs of the private sector and those of government should be properly coordinated to ensure that responses to each of these communities of interest, govern-

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ment and private sector, are appropriately balanced. For this reason, the Director, Office of Science and Technology Policy (OSTP), has delegated the responsibility for the private sector to the Chairman, Federal Communications Commission (FCC), and responsibility for the needs of government to the Executive Agent, National Communications System (NCS). A parity of level of authority of these officials is established. They will coordinate and negotiate telecommunications conflicts with respect to the allocation and use of the Nation's telecommunications resources, reporting to the Director on unresolved issues which are within the domain of their respective responsibilities and authorities.

(1) The Chairman, Federal Communications Commission (FCC), functioning within his assigned responsibilities and authorities is responsible for:

(i) The provision of services by the common carriers, broadcast facilities, and safety and special radio services of the private sector.

(ii) Assignment and control of radio frequencies to Commission licensees.

(iii) Facilities protection and reduction of vulnerability.

(iv) Maintenance and restoration of facilities.

(v) Restoration of vital and essential intercity services.

(vi) Closure of radio stations as may be directed by the Director, Office of Science and Technology Policy (OSTP).

(vii) Enforcement of pertinent law and regulations as required in the interest of national security during a national emergency.

(2) The Executive Agent, National Communications System (NCS), or the Manager, NCS, as empowered and directed and functioning within delegated responsibilities and authority, will:

(i) Develop policy, plans, and procedures with respect to the use of telecommunications resources within and by the Federal Government.

(ii) Establish rules and procedures with respect to priorities and precedence in the provision of communications services to agencies of the Federal Government.

(iii) Establish rules and procedures with respect to the control of procurement of new or additional telecommunications services from the carriers during a national emergency.

(iv) Develop, with the assistance of appropriate Federal agencies, a decentralized, regionally oriented management organization structure capable of functioning independently in support of regional Directors of the Office of Defense Resources (ODR) within the terms and guidelines for emergency management established by the Manager, National Communications System (NCS).

(v) Coordinate Federal and State government emergency preparedness telecommunications planning to assure that planning of respective governments is mutually supportive and interrelationships and prerogatives are clearly defined.

(vi) Upon direction, implement without delay a structured system of emergency practices and procedures.

(vii) Establish and maintain control of the allocation of Federal telecommunications resources and services to the needs of the Federal Government to assure that most vital needs are afforded precedence.

(viii) In coordination with the Federal Communications Commission (FCC) assist and advise the Director, Office of Science and Technology Policy (OSTP), in the execution of emergency telecommunications management during a national emergency.

(c) Heads of other Federal agencies have related or collateral responsibilities in assisting the Director, Office of Science and Technology Policy (OSTP), in his role as the Nation's telecommunications resource manager during a national emergency.

(1) The Secretary of Commerce will assist the Director, Office of Science and Technology Policy (OSTP), in:

(i) Development of policy with respect to Federal and State government interrelationships and prerogatives regarding the continuity of interconnectivity of interstate and intrastate telecommunications systems and the control of facilities which are common to both classes of systems.

(ii) Development of policy, plans, and procedures for emergency acquisition

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tion or construction of and contracting for telecommunications facilities.

(iii) Development of emergency plans for control and allocation of frequency assignments in those parts of the electromagnetic spectrum assigned to the U.S. Government.

(2) The Secretary of Defense is responsible for development and execution of emergency plans with respect to:

(i) Control over radio facilities and stations aboard vessels in the Maritime Service and coordinating all necessary activities pertaining to other radio stations and facilities in the Maritime Service with the Chairman, Federal Communications Commission (FCC).

(ii) Control over radio facilities and stations aboard aircraft in the Aviation Services, and coordinating all necessary activities pertaining to other radio facilities and stations in the Aviation Services with the Chairman, Federal Communications Commission (FCC).

(3) The Secretary of the Interior is responsible for development and execution of emergency plans with respect to the administration of telecommunications activities in the territorial and trusteeship areas under the jurisdiction of the United States and within the responsibility previously assigned to him by appropriate laws and other authority.

(4) All Federal agencies with responsibility for management or operation of telecommunications facilities, systems, or networks are responsible for preparation and execution of emergency operational plans which will ensure that resources under their operational control will be capable of responding to the needs of the Government and the Nation in event of a national emergency.

PART 211—EMERGENCY RESTORATION PRIORITY PROCEDURES FOR TELECOMMUNICATIONS SERVICES

Sec.

211.0 Purpose.

211.1 Authority.

211.2 Definitions.

211.3 Scope and coverage.

211.4 Policy.

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211.5 Priorities.

211.6 Submission and processing of restoration priority requests.

211.7 Obligation of carriers.

AUTHORITY: 84 Stat. 2083 and Executive Order 12046, 43 FR, 13349 et seq., March 29, 1978.

SOURCE: 43 FR 50431, Oct. 30, 1978, unless otherwise noted.

§ 211.0 Purpose.

This part establishes policies and procedures under which government and private entities will be furnished restoration priorities to insure that leased intercity private line telecommunications services vital to the national interest will be maintained during the continuance of a war in which the United States engaged. It supersedes the Director of Telecommunications Management Order of January 15, 1967 (32 FR 791, 47 CFR 201), which is hereby canceled. To assure the effective ability to implement its provisions, and also in order that government and industry resources may be used effectively under all conditions ranging from national emergencies to international crises, including nuclear attack, a single set of rules and procedures is essential, and they must be applied on a day-to-day basis so that the priorities they establish can be implemented at once when the occasion arises. As provided for in Part 18 of Executive Order 11490, as amended (3 CFR, 1966-1970 Comp., p. 820), policies, plans, and procedures developed pursuant to the Executive order shall be in consonance with the plans and policies contained in this part.

§ 211.1 Authority.

(a) Authority to direct priorities for the restoration of communications services in national emergencies is vested in the President, including authority conferred by section 103 of the National Security Act of 1947, as amended (50 U.S.C. 404), section 101 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2070), section 201 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281), section 1 of Reorganization Plan No. 1 of 1958, as amended (3

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CFR, 1954-1958 Comp., p. 447), and section 606 of the Federal Communications Act of 1934, as amended. (47 U.S.C. 606).

(b) Authority to develop plans policies, and procedures for the establishment of such restoration priorities has been delegated to the National Security Council, by Executive Orders 11051, 11490, and by the President's Memorandum of August 21, 1963 (28 FR 9413, 3 CFR Part 858 (1959-63 comp.)), all as amended by Executive Order 12046, (FR 43, 13349 et seq.).

§ 211.2 Definitions.

The following definitions apply herein—

(a) "Communications common carrier" or "carrier" means any person engaged in communications common carriage for hire, in intrastate, interstate, or international telecommunications.

(b) "Circuit" means a carrier's specific designation of the overall facilities provided between, and including, terminals for furnishing service. When service involves network switching, "circuit" includes those circuits between subscriber premises and switching centers (access lines) and those between switching centers (trunks).

(c) "Station" means transmitting or receiving equipment or combination transmitting and receiving equipment, at any location, or any premise, connected for private line service.

(d) "Private line service" means leased intercity private line service provided by carriers for intercity domestic and international communications over integrated communications pathways, and includes interchange facilities, local channels, and station equipment which may be integral components of such communications service.

(e) "Restoration" means the recommencement of service by patching, re-routing, substitution of component parts, and other means, as determined necessary by a carrier.

(f) "Government" means Federal, foreign, State, county, municipal, and other local government agencies. Specific qualifications will be supplied whenever reference to a particular level of government is intended, e.g., "Federal Government," "State govern-

ment." "Foreign Government" includes coalitions of governments secured by treaty, including NATO, SEATO, OAS, UN, and associations of governments or government agencies, including the Pan American Union, International Postal Union, and International Monetary Fund. "Quasi-government" includes eleemosynary relief organizations, such as the Red Cross organizations.

(g) "National Communications System (NCS)" means that system established by the President's Memorandum of August 21, 1963, "Establishment of a National Communications System" (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

(h) "Executive Agent" means the Executive Agent of the National Communications System.

(i) "Commission" means the Federal Communications Commission.

§ 211.3 Scope and coverage.

(a) The priority system and procedures established by this part are applicable to:

(1) U.S. domestic leased intercity private line services, including private line switched network services;

(2) U.S. international leased private line services to the point of foreign entry;

(3) Foreign extensions of U.S. international leased private line services to the extent possible through agreement between U.S. carriers and foreign correspondents;

(4) International leased private line services terminating in or transiting the United States;

(5) Federal Government-owned and leased circuits.

(b) The priority system and procedures established by this part are not applicable to operational circuits or order wires of the carriers needed for circuit reactivation and maintenance purposes, which shall have priority of restoration over all other circuits and shall be exempt from interruption for the purpose of restoring priority services.

§ 211.4 Policy.

During the continuance of a war in which the United States is engaged

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and when the provisions of this part are invoked, all communications common carriers shall comply with the following principles insofar as possible:

(a) Whenever necessary to maintain or restore a service having a designated priority, services having lower priority, lower subpriority, or no priority, will be interrupted in the reverse order of priority starting with nonpriority services.

(b) When services are interrupted to restore priority services, carriers will endeavor if feasible to notify users of the reason for the preemption.

(c) When public correspondence circuits are needed to satisfy requirements for priority services, idle circuits will be selected first. A minimum number of public correspondence circuits shall at all times be kept available so as to provide for the transmission of precedence-type messages and calls.

(d) Communications common carriers will not interrupt conversations having priority classification except insofar as necessary to restore services of higher priority.

(e) It is recognized that as a practical matter in providing for the maintenance or restoration of a priority service or services operating within a multiple circuit-type facility (such as a carrier band, cable, or multiplex system), lower priority, lower subpriority, or nonpriority services on parallel channels within a band or system may be restored concurrently with higher priority services. Such reactivation shall not, however, interfere with the expedited restoration of other priority services.

(f) The Executive Agent is authorized to instruct the carriers on the percentage of government-switched network intermachine trunks to be restored to provide capacity for priority access line traffic.

(g) The carriers are authorized to honor NCS-certified priorities from other authorized carriers for leased facilities.

(h) The carriers are authorized to honor restoration priorities certified by the Executive Agent.

(i) To ensure the effectiveness of the system of restoration priorities estab-

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lished by this part it is essential that rigorous standards be applied. Users are requested and directed to examine their private line service requirements in light of the criteria specified in this part and with regard to the availability of alternate communications facilities such as public correspondence message services, and Government-owned emergency communications systems.

§ 211.5 Priorities.

There are hereby established four levels of restoration priority. Within each level, subpriorities may be established by the Executive Agent, with the concurrence of the National Security Council, for both government and nongovernment services. The subpriorities categories currently in use, which have been established by the Executive Agent will remain in effect until modified. Compatibility of subcategories applicable to government and nongovernment users is essential to achieve the objective of a single restoration priority system.

(a) *Priority 1.* Priority 1 shall be the highest level of restoration priority, and shall be afforded only to Federal and Foreign Government private line services, and to Industrial/Commercial services which are designated for prearranged voluntary participation with the Federal Government in a national emergency. Circuit requirements in this level of priority shall be limited to those essential to national survival if nuclear attack occurs for:

(1) Obtaining or disseminating critical intelligence concerning the attack, or immediately necessary to maintain the internal security of the United States;

(2) Conducting diplomatic negotiations critical to the arresting or limiting of hostilities;

(3) Executing military command and control functions essential to defense and retaliation;

(4) Giving warning to the U.S. population;

(5) Maintaining federal Government functions essential to national survival under nuclear attack conditions.

(b) *Priority 2.* Priority 2 shall be the second highest level of restoration pri-

ority, and shall be afforded only to Federal and Foreign Government private line services, and to Industrial/Commercial services which are designated for prearranged voluntary participation with the Federal Government in a national emergency. Circuit requirements in this level shall be limited to those essential, at a time when nuclear attack threatens, to maintain an optimum defense posture and to give civil alert to the U.S. population. These are circuit requirements whose unavailability would present serious dangers:

(1) Reducing significantly the preparedness of U.S. defense and retaliatory forces;

(2) Affecting adversely the ability of the United States to conduct critical preattack diplomatic negotiations to reduce or limit the threat of war;

(3) Interfering with the effectual direction of the U.S. population in the interest of civil defense and survival;

(4) Weakening U.S. capability to accomplish critical national internal security functions;

(5) Inhibiting the provision of essential Federal Government functions necessary to meet a preattack situation.

(c) *Priority 3.* Priority 3 shall be the third highest level of restoration priority and shall be afforded to government, quasi-government, and Industrial/Commercial private line services: *Provided, however,* That Priority 3 will be afforded circuits serving Industrial/Commercial, State, county, municipal, and quasi-state and local government agencies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service is involved) will be manned continually, or where such circuits are automated and will be under constant surveillance from a remote location. Circuit requirements in this level shall be limited to those necessary for U.S. military defense and diplomacy; for law and order, and for national health and safety in a national emergency involving heightened possibility of hostilities. These are circuit requirements needed to:

(1) Insure performance of critical logistic functions, public utility services,

and administrative-military support functions;

(2) Inform key diplomatic posts of the situation and of U.S. intentions;

(3) Secure and disseminate urgent intelligence;

(4) Distribute essential food and other supplies critical to health;

(5) Provide for critical damage control functions;

(6) Provide for hospitalization;

(7) Continue critical Government functions;

(8) Provide transportation for the foregoing activities.

(d) *Priority 4.* Priority shall be the fourth highest restoration priority and shall be afforded to government, quasi-government, and Industrial/Commercial private line services: *Provided, however,* That Priority 4 will be afforded circuits serving Industrial/Commercial, State, county, municipal, and quasi-state and local government agencies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service is involved) will be manned continually, or where such circuits are automated and will be under constant surveillance from a remote location. Circuit requirements in this level shall be limited to those necessary for the maintenance of the public welfare and the national economy in a situation short of nuclear attack, or during reconstitution after attack. These include circuit requirements needed to continue the more important financial, economic, health, and safety activities of the Nation.

§ 211.6 Submission and processing of restoration priority requests.

(a) Except as otherwise provided below, all requests for restoration priority assignments will be submitted to the Executive Agent in the format prescribed by him for processing and certification.

(b) Priority 3 and 4 applications from county and municipal governments, quasi-state and local government agencies and private entities shall be forwarded to the Federal Communications Commission for its approval and for certification to the carriers.

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These submissions will be in the form prescribed by the Commission.

(c) Industrial/Commercial entities designated for prearranged voluntary participation with the Federal Government in a national emergency should submit separate applications to the Commission when requesting the assignment of priorities in category 1 or 2. Such assignments will require the approval of the National Security Council in order to continue to be effective during a war emergency. In all cases the justification for restoration priorities will contain a validation statement from the Government agency with whom participation is prearranged.

(d) Requests for restoration priority assignments made by Foreign Government agencies, except for NATO, NATO national military authority, and such other requests as the Executive Agent may be designated, will be submitted to the Department of State for initial evaluation and review. The Department will forward to the Executive Agent for processing and approval such of these requests as it finds acceptable.

(e) Requests for restoration priority assignments made by NATO, NATO national military authority, and such other requests as the Executive Agent may designate, will be forwarded through established Allied Long Lines Agency (ALLA) channels to the Secretary of Defense. The Secretary will forward to the Executive Agent for processing and approval such of these requests as he finds acceptable pursuant to approved NATO/U.S. procedures.

(f) Requests for temporary upgrading of restoration priority assignments occasioned by special critical conditions, including natural disasters, heightened diplomatic and political tensions, and tracking and control of manned space operations, may be submitted to the Executive Agent together with such information as he may require for expedited processing decision.

(g) All assignments, denials and changes of restoration priorities and subpriorities are subject to review and modification by the National Security Council.

(h) When requesting service from the carriers the user must include the certified restoration priority on the service authorization.

§ 211.7 Obligation of carriers.

(a) During the continuance of a war in which the United States is engaged, and when the provisions of this part are invoked, all carriers shall accord restoration priority assignments certified pursuant to this part priority over all other circuits.

(b) To promote the national interest and defense preparedness, carriers shall:

(1) Maintain such records of restoration priority assignments certified pursuant to this part as may be necessary to enable prompt implementation;

(2) Enter into agreements, to the extent possible, with their foreign correspondents to effect restoration of the foreign portion of leased international services in accordance with this part;

(3) Notify the Executive Agent of foreign correspondent procedures affecting Federal Government services that are not reasonably consistent with the priority requirements of this part.

PART 212—PROCEDURES FOR OBTAINING INTERNATIONAL TELECOMMUNICATION SERVICE FOR USE DURING A NATIONAL EMERGENCY

Sec.

212.0 Authority

212.1 Purpose.

212.2 Scope.

212.3 Circuit restoration procedures.

212.4 Responsibilities.

212.5 Other requirements.

212.6 Coordination of requirements.

212.7 Implementation.

AUTHORITY: E.O. 10995, E.O. 11084, 3 CFR 1959-1963 Comp., pp. 535 and 719; Memorandum of Aug. 21, 1963, 3 CFR 1959-1963 Comp., p. 858, E.O. 12046, 43 FR 13349, Mar. 29, 1978.

SOURCE: 43 FR 50434, Oct. 30, 1978, unless otherwise noted.

§ 212.0 Authority.

(a) Authority to prescribe procedures for obtaining telecommunication

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resources during an emergency is contained in Executive Order 12046 (FR 43, 13349 et seq.), and the President's National Communications Memorandum of Aug. 21, 1963 (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

(b) These procedures are applicable to the communications common carriers and non-Federal Government users under the President's authority contained in subsection 606(a) of the Communications Act of 1934, as amended. The authority under subsection 606(a) has been delegated by Executive Order 12046 to the Director of the Office of Science and Technology Policy. This authority may be exercised only during the continuance of a war in which the United States is engaged.

§ 212.1 Purpose.

The purpose of this part is to replace Annex 2 of EMO 3000.1, 32A CFR, Chap. I, and to provide specific guidance to Government and private entities who may have new requirements for international telecommunication service during national emergencies.

§ 212.2 Scope.

The procedures in this part provide guidance for the submission of emergency requirements for telecommunication channels between the United States and overseas or foreign points. Guidance on this subject was previously contained in Annex 2 of DMO 3000.1 and Mobilization Plan IX-3. Mobilization Plan IX-3 has been canceled.

§ 212.3 Circuit restoration procedures.

The restoration priority procedures for these emergency requirements shall be in accordance with the order entitled "Priority System for the Use and Restoration of Leased Intercity Private Line Services During Emergency Conditions," FCC Order 67-51.

§ 212.4 Responsibilities.

(a) Executive departments and agencies of the United States, whether or not components of the National Communications System, (NCS), shall submit their international emergency telecommunications requirements to

the Executive Agent, National Communications System, for coordination and consolidation of mobilization requirements.

(b) The Department of Defense shall coordinate NATO requirements in consonance with approved NATO/U.S. procedures for subsequent processing by the Executive Agent, National Communications System.

(c) The Department of State shall coordinate and approve foreign government circuit requirements and then forward them to the Executive Agent, NCS, for further processing.

§ 212.5 Other requirements.

Those entities, other than Executive department and agencies of the United States, having need for emergency international telecommunication service shall present their requirements to the Federal Communications Commission (FCC).

§ 212.6 Coordination of requirements.

(a) The NCS and FCC shall meet periodically to review the total mobilization requirements and to evaluate the impact of these requirements upon the common carriers' capability. If the situation develops in which emergency requirements cannot be provided by the communications common carriers, the Executive Agent, NCS, or the FCC, as appropriate, shall immediately notify the Director of the Office of Telecommunications Policy of that situation.

(b) The Director of the Office of Science and Technology Policy will assume the responsibility for coordinating and integrating mobilization requirements which are presented to him, making use of the knowledge, information, and advice of the FCC. These requirements shall be evaluated with due regard to facilities which must remain under the control of the commercial companies and those which must be generally available to the public and the Government.

§ 212.7 Implementation.

Executive departments and agencies of the United States are authorized to issue such additional orders as are nec-

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essary to effect implementation of this part.

PART 213—GOVERNMENT AND PUBLIC CORRESPONDENCE TELECOMMUNICATIONS PRECEDENCE SYSTEM

Sec.

213.0 Authority.

213.1 Background and purpose.

213.2 Scope.

213.3 Cancellation.

213.4 Definitions.

213.5 Precedence designators.

213.6 Criteria.

213.7 Policies.

213.8 Implementation.

AUTHORITY: Sec. 606, 48 Stat. 1104; 47 U.S.C. 606, E.O. 10705, 3 CFR, 1954-1958 Comp. E.O. 10995, 3 CFR, 1959-1963 Comp., President's Memorandum of August 21, 1963; 3 CFR, 1959-1963 Comp., p. 858; E.O. 12046, 43 FR 13349, Mar. 29, 1978.

SOURCE: 43 FR 50434, Oct. 30, 1978, unless otherwise noted.

§ 213.0 Authority.

(a) The voice and message precedence procedures for departments and agencies of the Federal Government prescribed by this part are prescribed pursuant to Executive Order No. 12046 (43 FR 13349 et seq.) and the President's memorandum of August 21, 1963, which established the National Communications System (28 FR 9413; 3 CFR, 1959-1963 Comp., p. 858).

(b) The procedures applicable to communications common carriers and non-Federal Government users prescribed by this part are prescribed by authority conferred upon the President by subsection 606(a) of the Communications Act of 1934, as amended, and delegated to the National Security Council by Executive Order 12046. That authority under section 606(a) may be exercised only during the continuance of a war in which the United States is engaged.

§ 213.1 Background and purpose.

(a) The National Security Council and the Federal Communications Commission have agreed upon a precedence system for the expeditious handling of messages and calls transmitted over Government and public correspondence facilities in all types of situ-

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ations from peacetime to massive nuclear attack. Effectuation of that system requires that the Director issue a circular and that the Commission concurrently issue an order prescribing the standards, procedures, policies, and regulations that together, constitute this single integrated precedence system.

(b) In conformity with that agreement the National Security Council is issuing this circular the purpose of which is to prescribe, on behalf of the President, that part of those standards, procedures, policies, and regulations which are within the cognizance of the NSC.

No significance should be attached to the fact that slightly different terms are used in their circular from those used in the companion order of the FCC. Those differences result from differences in terms in the basic legal authorities of the director and the Commission rather than from an intent to denote a distinction in purpose or effect.

§ 213.2 Scope.

The precedence system contained herein is applicable to:

(a) Users of Government service facilities, whether owned or leased.

(b) Users of public correspondence service facilities of the communication common carriers, to U.S. domestic and international communication common carriers, and to the extent possible by agreement between the latter and their foreign correspondents.

§ 213.3 Cancellation.

This circular cancels:

(a) Attachments A and B to Annex 3 of DMO 3000.1, dated November 8, 1963 (28 FR 12273).

(b) That portion of the memorandum of the Special Assistant to the President for Telecommunications, dated August 27, 1964, pertaining to message precedences.

§ 213.4 Definitions.

As used herein:

(a) Public correspondence services means those services offered to the general public for communications between all points served by a carrier or

by interconnected carriers on a nonexclusive message by message or call by call basis, as differentiated from leased private line services.

(b) The term "precedence" means the order in which messages and calls are processed. Transmission of information and call completion is therefore to be accomplished in the order required by the precedence designator. Any such properly categorized communications precede noncategorized communications.

(c) The term "Government" where used alone means Federal, foreign, State, county, or municipal government agencies. Specific reference will be made whenever it is intended to apply to less than the whole, e.g., "State Government," "Federal Government," etc.

(d) The term "Foreign Government" includes those foreign diplomatic and consular establishments and those conditions or associations of governments such as NATO, SEATO, OAS, UN, and associations of governments or governmental agencies such as Pan American Union, International Postal Union, International Monetary Fund, and similar organizations.

(e) The term "message" means a written or other form of record communication prepared for transmission and delivery at the destination.

(f) The term "call" means a request from a user for a connection to another station whether for telephone or record communication.

§ 213.5 Precedence designators.

(a) The following precedence designators are available for Government and public correspondence users:

Federal Government	Domestic public correspondence and international telephone calls
Flash.....	Flash emergency.
Immediate.....	Immediate emergency.
Priority.....	Priority emergency.
Routine.....	(No domestic equivalent.)

(b) Government and non-Government users of public correspondence services will handle their international messages in accordance with current ITU Telegraph Regulations. Government users should note that, generally, the only precedence designator

available for their use for international messages sent over public correspondence circuits is *Etat Priorite*. The ITU Regulations do not contain precedence designators which equate to Flash, Immediate, or Priority. Accordingly, Government messages whether Flash, Immediate, or Priority precedence when sent over international public correspondence circuits will be handled as *Etat Priorite* messages. Thus, Priority messages will receive the same treatment in transmission and processing as Immediate or Flash messages. Conversely, *Etat Priorite* messages received in the United States shall be transmitted and processed in the order of receipt, to the extent possible. The precedence designator available for non-Government users of public correspondence services is Urgent. The Urgent designator is limited for use only during wartime conditions, as declared pursuant to section 606 of the Communications Act of 1934.

(c) Domestic and International U.S. common carriers, insofar as practicable by agreement with their foreign correspondents, shall endeavor to arrange the proper level of precedence handling of international messages and calls originating, terminating in, or transiting the United States: *Provided, however*, That insofar as international messages are concerned the level of precedence shall be consistent with the International Telecommunication Conventions and regulations thereunder.

(d) The Government designators shall be used throughout the Federal Government. All messages and telephone calls sent via public correspondence services shall use domestic or international public correspondence designators as appropriate. Thus, the responsibility is on Government and public correspondence users to recognize and use the appropriate designators when using public correspondence services.

(e) On international telephone calls the carrier's operator will convert to the appropriate international designator.

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§ 213.6 Criteria.

(a) *Flash, Flash Emergency.* (1) This is the highest order of precedence and shall be strictly limited to Federal and Foreign Government agencies.

(2) Flash, or Flash Emergency telephone calls or messages shall be handled in the order received and ahead of all calls or messages except as indicated for international messages in ITU Regulations. When necessary to obtain a circuit for a Flash, or Flash Emergency call any call in progress of a lesser precedence will be interrupted, if feasible. Any message of a lesser precedence in the process of transmission will be halted, if feasible, to clear the channel for the Flash or Flash Emergency transmission. Flash or Flash Emergency precedence shall be reserved for calls and messages having an immediate bearing on:

(i) Command and control of military forces essential to defense and retaliation.

(ii) Critical intelligence essential to national survival.

(iii) Conduct of diplomatic negotiations critical to the arresting or limiting of hostilities.

(iv) Dissemination of critical civil alert information essential to national survival.

(v) Continuity of Federal governmental functions essential to national survival.

(vi) Fulfillment of critical U.S. internal security functions essential to national survival.

(vii) Catastrophic events of national or international significance, such as Presidential Action Notices essential to national survival during attack or preattack conditions.

(b) *Immediate, Immediate Emergency, Urgent.* Immediate, Immediate Emergency, or Urgent telephone calls or messages shall be handled as fast as possible and ahead of all other calls or messages except those having a higher precedence. Any message or call of a lower precedence in the process of transmission will be halted, if feasible, to clear the channel for this transmission. It will be reserved generally for calls or messages pertaining to:

(1) Situations which gravely affect the security of national and allied forces.

(2) Reconstitution of forces in a postattack period.

(3) Intelligence essential to national security.

(4) Conduct of diplomatic negotiations to reduce or limit the threat of war.

(5) Implementation of Federal Government actions essential to national survival.

(6) Situations which gravely affect the internal security of the United States.

(7) Civil defense actions concerning direction of our population and its survival.

(8) Disasters or events of extensive seriousness having an immediate and detrimental effect on the welfare of the population.

(9) Vital information having an immediate effect on aircraft, spacecraft, or missile operations.

(c) *Priority, Priority Emergency, Urgent.* Priority, Priority Emergency, or Urgent messages and calls shall take precedence over messages or calls designated "Routine," or in the case of common carriers, over all nonprecedence traffic. Priority, Priority Emergency, or Urgent precedence is generally reserved for calls or messages which require expeditious action. Examples are calls or messages pertaining to:

(1) Information on locations where attack is impending or where fire or air support will soon be placed.

(2) Air-ground integrated operations.

(3) Important intelligence.

(4) Important diplomatic information.

(5) Important information concerning the launch, operation, or recovery of spacecraft or missiles.

(6) Movement of naval, air, and ground forces.

(7) Coordination between governmental agencies concerning the performance of emergency preparedness functions.

(8) Major civil aircraft accidents.

(9) Maintaining the public health, safety, and the welfare of our population.

(10) Critical logistic functions, provisions of critical public utility services, and administrative military support functions.

(11) Distributing essential food and supplies critical to health.

(12) Accomplishing tasks necessary to insure critical damage control functions.

(13) Preparations for adequate hospitalization.

(14) Continuity of critical Government functions.

(15) Arranging minimum transportation for accomplishing the aforesaid functions.

(16) Continuing or reestablishing our more important financial, economic, health, and safety activities. Producing, procuring, and distributing food materials and supplies which are considered necessary to the immediate support of a war effort, the national defense, or for expediting the means of meeting the effects of natural disasters.

(17) Prompt delivery of information by press representatives to news media organizations and newspapers covering news of national or widespread disasters.

(d) *Routine; no domestic equivalent.* Routine precedence designation applies to those normal day-to-day communications which require rapid transmission by telephone or message, but do not require urgent or preferential handling.

§ 213.7 Policies.

(a) Calls and messages in each precedence classification above shall have no precedence over others within the same classification, except where, within the same classification, they cannot be handled simultaneously. Then, they shall be handled in the order of their receipt.

(b) Individuals whose requirements qualify them to use the precedence system share the responsibility for insuring its effectiveness. Users must familiarize themselves with the purposes to be served by the use of each precedence designator. It must be remembered that the entire system will operate successfully only if the use of the precedence designator is limited strictly to the intended purposes. Each user must consider whether each message or call requires any special precedence and exercise care not to specify a

higher precedence than circumstances require.

(c) For public correspondence message services, the domestic or international precedence designators shall be shown in full by the sender as the first word preceding the name of the addressee.

(d) For public correspondence call services, the user should first attempt to complete the call in the normal manner. In the event the user is unable to complete the call and the type of communication falls within one of the precedence categories listed herein the call should be filed with an operator for completion and the user must specify the required precedence handling by stating that this is a Flash Emergency, Immediate Emergency, or Priority Emergency call, whichever the case may be.

(e) Any apparent misuse of precedence indicators by non-Federal Government activities brought to the attention of the communication common carriers shall be referred to the FCC on and after-the-fact basis.

(f) Any apparent misuse by Federal Government activities brought to the attention of the communication common carriers shall be referred to the Executive Agent, National Communications System. The Executive Agent will refer any matter which cannot be resolved with the cognizant Government activity to the National Security Council, for decision.

(g) It is essential to provide public message and call capability for the transmission of military, governmental, and essential non-Government precedence messages and calls. Private line services for military, governmental, and other essential users are protected under a Priority System for Intercity Private Line Services promulgated by the FCC (FCC Order 67-51) and the National Security Council. However, during national emergencies, military, governmental, and other essential users will have additional requirements for prompt completion of precedence traffic over public correspondence communication common carrier facilities. Therefore, notwithstanding the provisions of the above-described Priority System for Intercity Private Line Services, communication

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common carriers shall have available a minimum number of public correspondence circuits at all times so as to provide for the transmission of precedence type messages and calls. Normally, the communication common carriers shall use their judgment in determining this number of circuits required for public correspondence precedence traffic. However, the authority is reserved to the National Security Council or the Federal Communications Commission, as appropriate to the time and situation, to revise the decisions of the carriers respecting the allocation of circuits, and to resolve any questions which are referred to them by the carriers or the users.

§ 213.8 Implementation.

Federal departments and agencies are authorized to issue such additional orders as are necessary to effect implementation of this circular.

PART 214—PROCEDURES FOR THE USE AND COORDINATION OF THE RADIO SPECTRUM DURING A NATIONAL EMERGENCY

Sec.

214.0 Authority.

214.1 Purpose.

214.1 Scope.

214.3 Assumptions.

214.4 Planned actions.

214.5 Responsibilities.

214.6 Postattack procedures and actions.

Authority: 84 Stat. 2083 and E.O. 12046 (43 FR 13349 et seq., Mar. 29, 1978).

Source: 43 FR 50436, Oct. 30, 1978, unless otherwise noted.

§ 214.0 Authority.

The provisions of this Part 214 are issued pursuant to Reorganization Plan No. 1 of 1970, 84 Stat. 2083, and Executive Order 12046 (43 FR 13349 et seq.). This Part 214 replaces Annex 1 of DMO 3000.1, dated November 8, 1963. (28 FR 12273).

§ 214.1 Purpose.

The purpose of this part is to provide guidance for the use of the radio spectrum in a period of war, or a threat of war, or a state of public peril or disaster or other national emergency.

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§ 214.2 Scope.

This part covers procedures for the use of radio frequencies upon proclamation by the President that there exists war, or a threat of war or a state of public peril or disaster or other national emergency or in order to preserve the neutrality of the United States. These procedures will be applied in the coordination, application for, and assignment of radio frequencies upon order of the Director, OSTP. These procedures are intended to be consistent with the provisions and procedures contained in emergency plans for use of the radio spectrum.

§ 214.3 Assumptions.

When the provisions of this part become operative, Presidential emergency authority, including Executive Order 11490, 12046 (3 CFR, 1966-1970 Comp., p. 820), and other emergency plans regarding the allocation and use of national resources will be in effect. In a postattack period, the Director, OSTP, will have authority to make new or revised assignments of radio frequencies in accordance with authority delegated by the President.

§ 214.4 Planned actions.

(a) Whenever it is determined necessary to exercise, in whole or in part, the President's emergency authority over telecommunications, the Director, OSTP, will exercise that authority as specified in Executive Order 12046, FR 43, 13349 et seq.

(b) In this connection, and concurrently with the war or national emergency proclamation by the President, the Director will:

(1) Authorize the continuance in force of all outstanding frequency authorizations issued by the Director, OSTP, and the Federal Communications Commission (FCC), except as those authorizations may be modified by emergency plans for use of the radio spectrum and except as they may otherwise be modified or revoked by the Director in the national interest;

(2) Redesignate to the Secretary of Defense authority necessary to control the use of the radio spectrum in areas of active combat, where such control is

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necessary to the support of U.S. military operations;

(3) Close all non-Government radio stations in the international broadcasting service as defined in the FCC rules and regulations, except those carrying or scheduled to carry U.S. Government-controlled radio broadcasts;

(4) Close all amateur radio stations, except those operating as a part of the Radio Amateur Civil Emergency Service (RACES).

§ 214.5 Responsibilities.

(a) The Director, OSTP, will issue such policy guidance, rules, regulations, procedures, and directives as may be necessary to assure effective frequency usage during war or national emergency conditions.

(b) The FCC shall issue appropriate rules, regulations, orders, and instructions and take such other actions not inconsistent with the actions of the Director, OSTP, as may be necessary to ensure the immediate availability of the frequencies and facilities between 10 and 25,000 kHz provided for in emergency plans for use of the radio spectrum.

(c) The FCC shall assist the Director in the preparation of emergency plans pursuant to Part 18, Executive Order 11490 (3 CFR, 1966-1970 Comp., p. 820).

(d) Each Federal Government agency concerned shall develop and be prepared to implement its own plans, and shall make necessary preemergency arrangements with non-Government entities for the provision of desired facilities or services, all subject to the guidance and control of the Director.

§ 214.6 Postattack procedures and actions.

(a) The frequency management staff supporting the Director, OSTP, will be comprised of predesignated personnel from the frequency management staffs of the government user agencies and the FCC, will have proceeded to the OSTP relocation site in accordance with alerting orders in force.

(b) Government agencies having need for new radio frequency assignments or for modification of existing assignments involving a change in the

frequency usage pattern shall unless otherwise provided submit applications therefor to the Director, OSTP, by whatever means of communication are available and appropriate, together with a statement of any preapplication coordination accomplished. The Director, OSTP, will review such applications, accomplish the necessary additional coordination insofar as practicable, consider all pertinent views and comments, and grant or deny, as he shall determine, the assignment of such frequencies. All concerned will be informed promptly of his decisions.

(c) Non-Government entities having need for new radio frequency assignments or for modifications of existing assignments will continue to submit applications therefor to the FCC, or in accordance with FCC instructions. Such applications shall be coordinated with the director, OSTP, and granted subject to the approval of the Director, OSTP, or his delegate.

(d) All changes of radio frequency usage within U.S. military theaters of operation will be coordinated with the Director, OSTP, where harmful interference is likely.

(e) Where submission to the Director, OSTP, is impracticable, the applicant shall:

(1) Consult emergency plans for use of the radio spectrum and the Frequency Assignment Lists;

(2) Accomplish such coordination as appropriate and possible;

(3) Act in such manner as to have a minimum impact upon established services, accepting the responsibility entailed in taking the temporary action required.

(4) Advise the Director, OSTP, as soon as possible of the action taken, and submit an application for retroactive approval.

PART 215—FEDERAL GOVERNMENT
FOCAL POINT FOR ELECTROMAGNETIC PULSE (EMP) INFORMATION

Sec.

215.0 Purpose and authority.

215.1 Background.

215.2 Assignment of responsibilities.

AUTHORITY: 84 Stat. 2083, and E.O. 12046, 43 FR 13349, March 29, 1978.

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SOURCE: 43 FR 50437, Oct. 30, 1978, unless otherwise noted.

§ 215.0 Purpose and authority.

The purpose of this part is to designate a focal point within the Federal Government for electromagnetic pulse (EMP) information concerning telecommunications. It is issued pursuant to the authority of Reorganization Plan No. 1 of 1970, 84 Stat. 2083, Executive Order 12046 (43 FR 13349 et seq.) and the President's memorandum of August 21, 1963, "establishment of a National Communications System." (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

§ 215.1 Background.

(a) The nuclear electromagnetic pulse (EMP) is part of the complex environment produced by nuclear explosions. It consists of transient voltages and currents which can cause malfunctioning and serious damage to electrical and electronic equipment.

(b) The Defense Nuclear Agency (DNA) is the overall technical coordinator for the Army, Navy, Air Force, and DOE laboratories on matters concerning nuclear weapons, nuclear weapons effects, and nuclear weapons testing. It acts as the focal point be-

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tween the service laboratories and other agencies. The Defense Communications Agency (DCA) maintains a data base for telecommunications for the National Communications System (NCS) and provides a capability for conducting telecommunications survivability studies for civil and military departments and agencies.

(c) In order to disseminate among affected Federal agencies information concerning the telecommunications effects of EMP and available protective measures, and in order to avoid duplication of research efforts, it is desirable to designate a focal point within the Federal Government for telecommunications EMP matters.

§ 215.2 Assignment of responsibilities.

The Executive Agent, NCS, shall be the focal point within the Federal Government for all EMP technical data and studies concerning telecommunications. It shall provide such data and the results of such studies to all appropriate agencies requesting them. It shall coordinate and approve EMP telecommunications tests and studies, and shall keep the National Security Council informed regarding such tests and studies being conducted and planned.

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6478	COMMENTS FOR THE NSC RE PEAD 5 (TAB 5 - COVER PAGE TABLE OF CONTENTS; TAB A - PP. 1; TAB B - PP. 2-4; TAB C - PP. 5-14; TAB D - PP. 15-45; TAB E - PP. 46-48)	52	5/1/1986	B1 B2

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C Closed in accordance with restrictions contained in donor's deed of gift.

C

D

