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PART 80 TO END
Revised as of October 1, 1988



an applicant who employs or proposes to employ less than five full-time employees. Additionally, a program for minority group members need not be filed if minorities constitute less than five percent, in the aggregate, of the labor force in the applicant's labor recruitment area. Applicants exempt

from the filing requirement should submit a statement of explanation with their applications. (d) Each licensee or permittee with five or more full-time employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

CHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY AND NATIONAL SECURITY COUNCIL

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PART 201—EXECUTIVE POLICY AND RESPONSIBILITIES

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201.0 Background.
201.1 Authority.
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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 Priority 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, wheresoever 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.

(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.

(c) 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.

§ 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.

(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

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. Decentralized 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.

- (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 section 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

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

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 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 commencement of service by patching, rerouting, 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

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 restoration 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 established by this part, the carriers shall

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 priority.

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.

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.

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 telecommunications 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.

§ 212.0 Authority.

(a) Authority to prescribe procedures for obtaining telecommunication 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 telecommunications service during national emergencies.

§ 212.2 Scope.

The procedures in this part provide guidance for the submission of emergency requirements for telecommunications 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

§ 212.7 Implementation.

Executive departments and agencies of the United States are authorized to issue such additional orders as are necessary 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 telecommunications 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 situations 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 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 coalitions 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.

§ 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. international 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, 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 transmis-

sion. 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 oper-

ate 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 Inter-city 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 Inter-city Private Line Services, communication 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.

§ 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 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 of the 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.

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 coordi-

nator 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 between 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.

CHAPTER III—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, DEPARTMENT OF COMMERCE

Part

300

Manual of Regulations and Procedures for Federal Radio Frequency Management

PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO AND FREQUENCY MANAGEMENT

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

(a) The Manual of Regulations and Procedures for Federal Radio Frequency Management (hereinafter referred to as the NTIA Manual) is issued by the Assistant Secretary of Commerce for Communications and Information, and is specifically designed to cover the Assistant Secretary's frequency management responsibilities pursuant to delegated authority under Executive Order 12046 (March 27, 1978).

(b) The Federal agencies shall meet the requirements set forth in the May

47 CFR Ch. III (10-1-88 Edition)

1986 edition of the NTIA Manual, as amended by revisions dated May 1988 which is incorporated by reference with the approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

(c) The NTIA Manual is updated January, May, and September of each year and notice of these changes are printed in the FEDERAL REGISTER. The NTIA Manual can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903-008-00000-8. The NTIA Manual is on file at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408.

[52 FR 49016, Dec. 29, 1987, as amended at 53 FR 30060, Aug. 10, 1988]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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must revise to reflect 12472

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Take to carry out your responsibilities

Provide assistance for private sector /

and government understanding

Makes it readily available to public

code of federal regulations

Telecommunication

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Revised as of October 1, 1989

CONTAINING
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OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF OCTOBER 1, 1989

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Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....	as of January 1
Title 17 through Title 27.....	as of April 1
Title 28 through Title 41.....	as of July 1
Title 42 through Title 50.....	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, October 1, 1989), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a

date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request. Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

INCORPORATION BY REFERENCE

What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR Part 51 are met. Some of the elements on which approval is based are:

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR Part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington DC 20408, or call (202) 523-4534.

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled **CFR INDEX AND FINDING AIDS**. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table

III). A list of CFR Titles, Chapters, and parts publishing in the CFR are also included.

An index to the text of "Title 3" volume.

The Federal Register Index is issued is based on a consolidation of the "Contents" section.

A List of CFR Sections Affected (L) revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of Code of Federal Regulations.

INQUIRIES AND SALES

For a summary, legal interpretation, this volume, contact the issuing agency and reference assistance with respect to addressed to the Director, Office of the Records Administration, Washington. Sales are handled exclusively by the Government Printing Office, Washington, D.C.

October 1, 1989.

ate note will be inserted following the

(Pub. L. 96-511) requires Federal agencies with their information collection requiring numerous OMB control numbers as the CFR. These OMB numbers are for recordkeeping or reporting require-

the revision date stated on the cover. Users may find the text of provisions in the appropriate numerical list of January 1, 1973, consult either the List of 1964-1972, published in three separate parts, or January 1, 1973, a "List of CFR Sections Affected" volume.

Incorporation by reference was established to meet the requirement to publish referring to materials already published. If valid, the Director of the Federal Register of incorporation by reference is that published in full in the Federal Register (5 CFR). For properly issued regulation, has the

reference? The Director of the Federal Register will approve only when the requirements for incorporation by reference are: (1) the material is necessary to the regulation; (2) the material is not available in the public domain; (3) the material is not available in the public domain; (4) the material is not available in the public domain; (5) the material is not available in the public domain.

available to the extent necessary to the administrative process. The material must be submitted for publication in the Federal Register.

reference in this volume are listed in the

reference cannot be found? If you have a reference to material listed in the Finding Aids, please contact the Director of the Federal Register for that incorporation. If, after consulting the Finding Aids, the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 (telephone 202-523-3517).

regulations is contained in a separate volume entitled CFR INDEX AND FINDING AIDS. The Finding Aids are published in the Federal Register (Table of Contents).

III). A list of CFR Titles, Chapters, and Parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of "Title 3—The President" is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES AND SALES

For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 (telephone 202-783-3238).

MARTHA L. GIRARD,
Acting Director,
Office of the Federal Register.

October 1, 1989.

THIS TITLE

Title 47—TELECOMMUNICATION is composed of five volumes. Volumes one, two, three, four, and five contain all current regulations and are arranged in the following order: Parts 0-19, Parts 20-39, Parts 40-69, Parts 70-79, and Part 80 to End, Chapter I—Federal Communications Commission. The last volume, Part 80 to End, also includes Chapter II—Office of Science and Technology Policy and National Security Council, and Chapter III—National Telecommunications and Information Administration, Department of Commerce. The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 1989.

Part 73 contains a numerical designation of FM broadcast channels (§ 73.201) and a table of FM allotments designated for use in communities in the United States, its territories, and possessions (§ 73.202). Part 73 also contains a numerical designation of television channels (§ 73.603) and a table of channel assignments to listed communities in the United States, its territories, and possessions (§ 73.606).

The OMB control numbers for the Federal Communications Commission, appear in § 0.408 of Chapter I. For the convenience of the user § 0.408 is reprinted in the Finding Aids section of the second, third, fourth, and fifth volumes.

Redesignation tables for Chapter I—Federal Communications Commission appear in the Finding Aids section of the two volumes containing Parts 20-39, and Part 80 to End.

For this volume, Jacquelyn J. Demsky was Chief Editor. The Code of Federal Regulations publication program is under the direction of Richard L. Claypoole, assisted by Ruth C. Pontius.

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to obtain assignment of the construction permit or license of such a station, for authority to acquire control of an entity holding such construction permit or license, (other than pro forma or involuntary assignments of transfers) and for renewal of license, shall file with the FCC programs designed to provide equal employment opportunities for American Indians and Alaskan Natives; Asians and Pacific Islanders; Blacks, not of Hispanic origin; Hispanics; and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in Forms 396 and 396A. A program need not be filed by an applicant who employs or proposes to employ less than five full-time employees. Additionally, a program for minority group members need not be filed if minorities constitute less than five percent, in the aggregate, of the labor force in the applicant's labor recruitment area. Applicants exempt from the filing requirement should submit a statement of explanation with their applications.

(d) Each licensee or permittee with five or more full-time employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

CHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY AND NATIONAL SECURITY COUNCIL

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NATIONAL COMMUNICATIONS SYSTEM ISSUANCE SYSTEM

Brent Scowcroft

Assistant to the President for National
Security Affairs

Date:

PART 201 - EXECUTIVE POLICY.

Sec.

201.0 Background

201.1 Authority

201.2 Definitions

201.3 Policy

*Changes made
by OSTP
Signed by Dr. Bromley
19 June 1990*

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; 3 CFR, 1978 Comp., p. 158); E.O. 1247²~~7~~,
April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193); E.O. 12656, November
18, 1988 (53 FR 47491; 3 CFR, 1988 Comp., p. 585).

(h) "NS/EP treatment" refers to the provisioning of a telecommunications service before others based on the provisioning priority level assigned by the Executive Office of the President.

(i) "National Telecommunications Management Structure (NTMS)" means a survivable and enduring management structure which will support the exercise of the war power functions of the President under Section 706 of the Communications Act of 1934 (47 U.S.C. § 606), as amended.

(j) "Private sector" means those sectors of non-Federal government entities that are users of telecommunications services.

(k) "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.

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

(m) "Wartime emergency" means a crisis or event which permits the exercise of the war power functions of the President under Section 706 of the Communications Act of 1934 (47 U.S.C. § 606), as amended.

§201.3 Policy.

capability. In addition, a survivable ^{Noticia} telecommunications management structure is necessary to manage initiation, coordination and restoration of telecommunications services. The management structure must include the following:

- (1) Legal authority for telecommunications management.
 - (2) A control mechanism to manage the initiation, coordination and restoration of telecommunications services.
 - (3) Procedures to ensure timely damage assessment and allocation of residual resources and controlled restoration of services based on national policy/direction.
 - (4) The capability to execute a telecommunications recovery plan based on national policy/guidance.
- (c) Notwithstanding any provision regarding NS/EP Planning and Execution, nothing in this Part 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.

convenience and necessity.

(ii) 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.

(iii) Develop policy, plans and procedures adequate to execute the responsibilities assigned pursuant to these regulations under all conditions of crisis or emergency.

(iv) Consult as appropriate with authorized officials of the NCS to ensure continued coordination of their respective NCS activities.

(10) The National Communications System (comprised of the Executive Agent for the NCS, the NCS Committee of Principals, and the Manager, NCS) shall assist the President, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget in the exercise of national security and emergency preparedness ^{NSC} telecommunications functions and responsibilities and in the coordination of

(a) Executive departments and agencies of the United States, whether or not components of the National Communications System, (NCS), shall, to the extent permissible by law and consistent with national security, submit their international emergency telecommunications requirements to the Executive Agent, NCS, 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, NCS.

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

§212.4 Other requirements.

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

Government
private sector

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 12472 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

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

(1) Authorize the continuance of all frequency authorizations issued by the National Telecommunications and Information ^{Administration} Agency (NTIA) and the Federal Communications Commission (FCC), except as they may otherwise be modified or revoked by the Director, OSTP, in the national interest;

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