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2005-0336-F

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FOIA MARKER

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Collection/Office of Origin: Science and Technology Policy, Office of (OSTP)
Series: O'Neil, John F., Files
Subseries: Telecommunications Files

OA/ID Number: 62106
Folder ID Number: 62106-004

Folder Title:
National Communication Systems

Stack:	Row:	Section:	Shelf:	Position:
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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Report	Security of the Public Switched Network (12 pp.)	8/91	(b)(1)	

Collection:

Record Group: Bush Presidential Records
Office: Science and Technology Policy, Office of (OSTP)
Series: O'Neil, John F., Files
Subseries: Telecommunications Files
WHORM Cat.:
File Location: National Communication Systems

Date Closed: 6/3/2010	OA/ID Number: 62106-004
FOIA/SYS Case #: 2005-0336-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Removed as a personal record misfile.

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

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Report	Security of the Public Switched Network (12 pp.)	8/91	(b)(1)	

Collection:

Record Group: Bush Presidential Records
Office: Science and Technology Policy, Office of (OSTP)
Series: O'Neil, John F., Files
Subseries: Telecommunications Files
WHORM Cat.:
File Location: National Communication Systems

Date Closed: 6/3/2010	OA/ID Number: 62106-004
FOIA/SYS Case #: 2005-0336-F	Appeal Case #:
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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Report	Security of the Public Switched Network (16 pp.)	7/92	(b)(1)	

Collection:

Record Group: Bush Presidential Records
Office: Science and Technology Policy, Office of (OSTP)
Series: O'Neil, John F., Files
Subseries: Telecommunications Files
WHORM Cat.:
File Location: National Communication Systems

Date Closed: 6/3/2010	OA/ID Number: 62106-004
FOIA/SYS Case #: 2005-0336-F	Appeal Case #:
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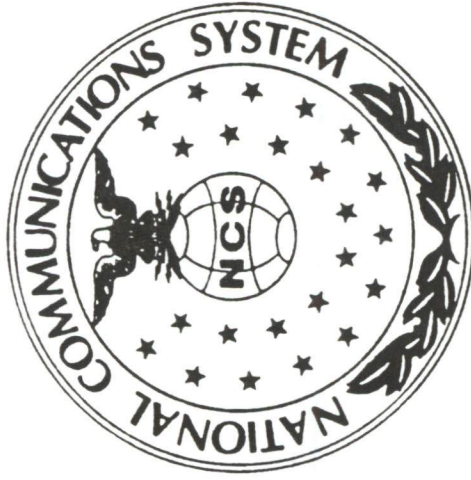
C. Closed in accordance with restrictions contained in donor's deed of gift.

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National Plan for Telecommunications Support in Non-Wartime Emergencies



***Mr. Curt Law
National Coordinating Center***

NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

PURPOSE

- Provide an overview of the NCS, and
- Discuss the National Plan for Telecommunications Support in Non-Wartime Emergencies and its relationship to ESF #2 and the Federal Response Plan

NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

AGENDA

- Overview of the NCS and NCC
- Overview of the National Plan
- National Level Responsibilities and Deployment Sequence
- ESF #2 and the National Plan

NATIONAL COMMUNICATIONS SYSTEM MISSION

The NCS Assists

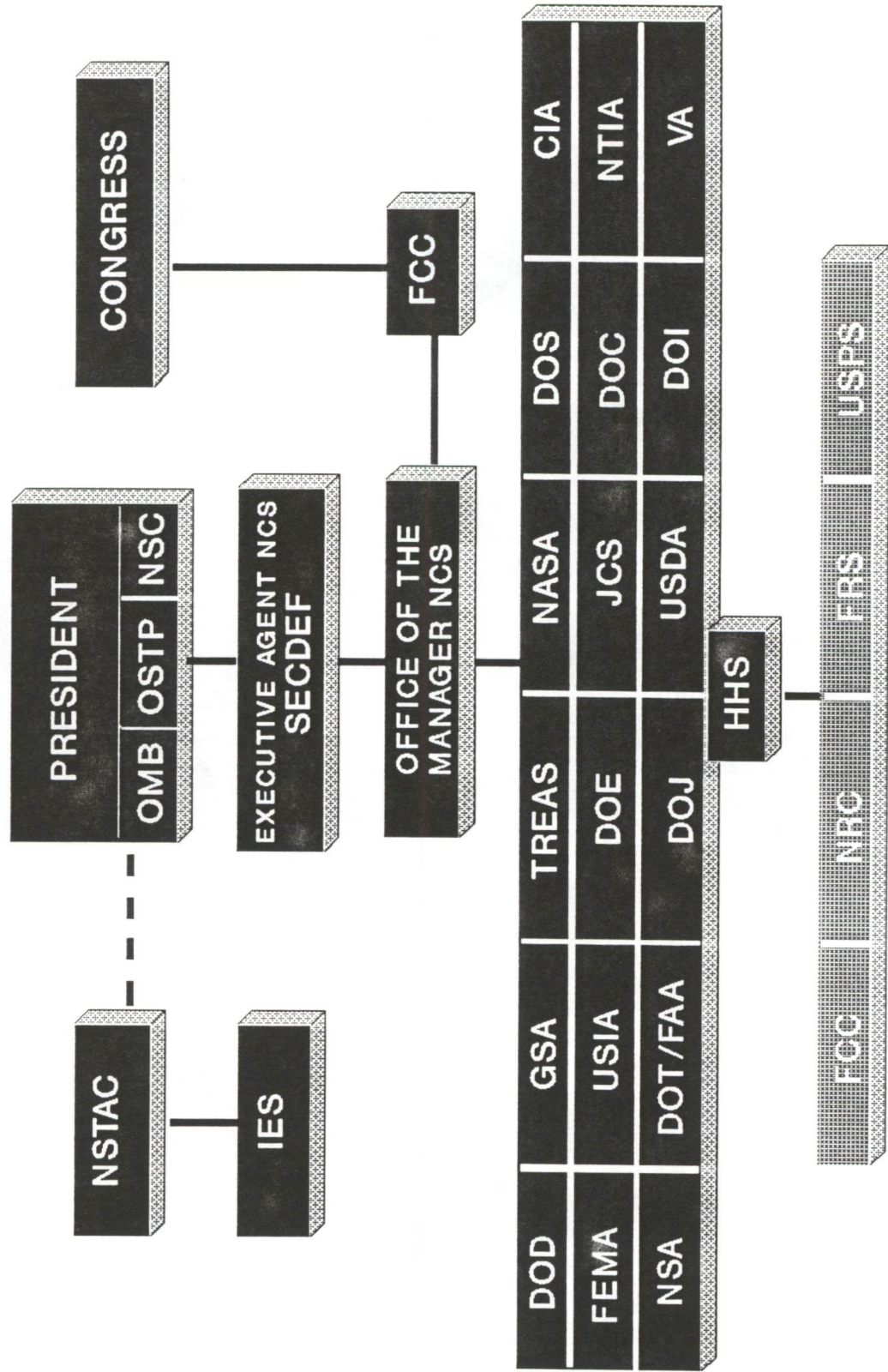
- » *The President*
- » *The National Security Council*
- » *The Office of Science and Technology Policy*
- » *The Office of Management and Budget*

In :

- (1) The Exercise of the Telecommunications Functions and Responsibilities set forth in Section 2 of this Order; and
- (2) The Coordination for and Provision of National Security and Emergency Preparedness Communications for the Federal Government under all circumstances, including Crisis or Emergency, Attack, Recovery and Reconstitution.

Executive Order 12474
April 3, 1984

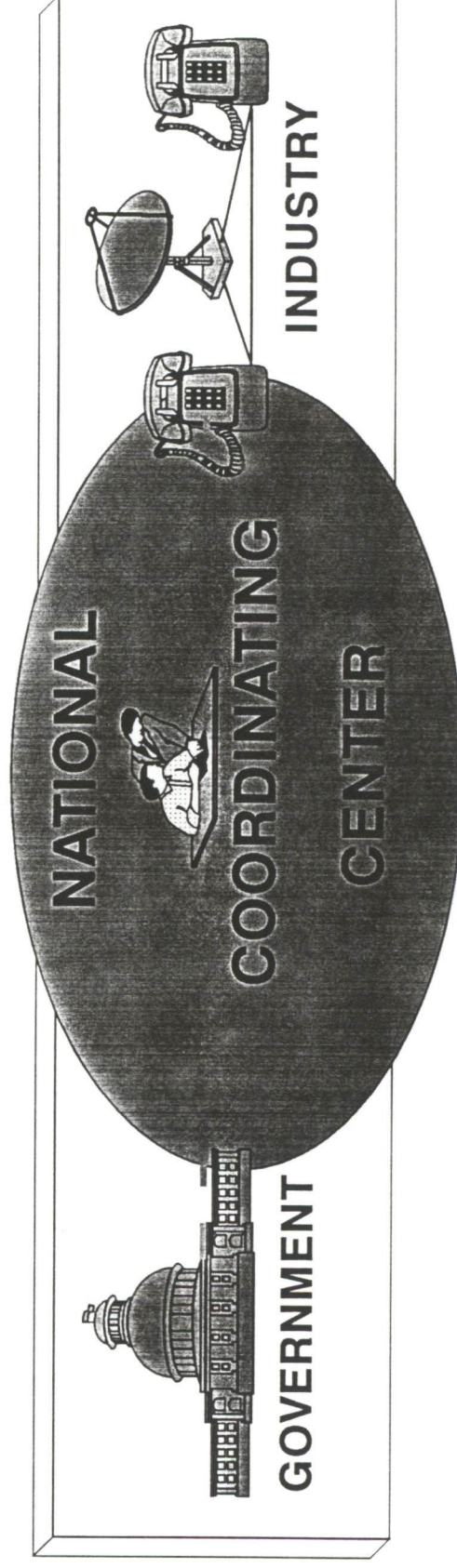
NATIONAL COMMUNICATIONS SYSTEM ORGANIZATION



NATIONAL COORDINATING CENTER MISSION

The National Coordinating Center (NCC) is:

- » a JOINT FEDERAL GOVERNMENT and TELECOMMUNICATIONS INDUSTRY organization
- » dedicated to the support of FEDERAL GOVERNMENT NS/EP Telecommunications Requirements



NATIONAL COORDINATING CENTER EMERGENCY OPERATIONS

- » ASSESS Damage
- » IDENTIFY NS/EP Requirements
- » PRIORITIZE as necessary
- » COORDINATE/DIRECT Restoration

NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

National Plan Purpose

Serves as the basis for planning and for utilization of national telecommunication assets and resources in support of non-wartime emergencies, including those covered by the Stafford Act, as amended, during Presidentially declared Emergencies and Major Disasters, or in Extraordinary Situations

NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

BACKGROUND

- » PUBLISHED BY OSTP - SIGNED BY DIR, OSTP; PREPARED BY JTRB
- » APPLICABLE TO ALL FEDERAL DEPARTMENTS & AGENCIES

PURPOSE

- » PROVIDE BASIS FOR NS/EP TELECOM SUPPORT PLANNING
- » DEFINE PROCESS FOR UTILIZATION OF NATIONAL TELECOM RESOURCES IN ALL NON-WARTIME EMERGENCIES
- » DESCRIBE THE NCS' RESPONSE/SUPPORT STRUCTURE

NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

Federal Response Plan

**Describes Federal Governments Response and Recovery
role for significant natural disasters**

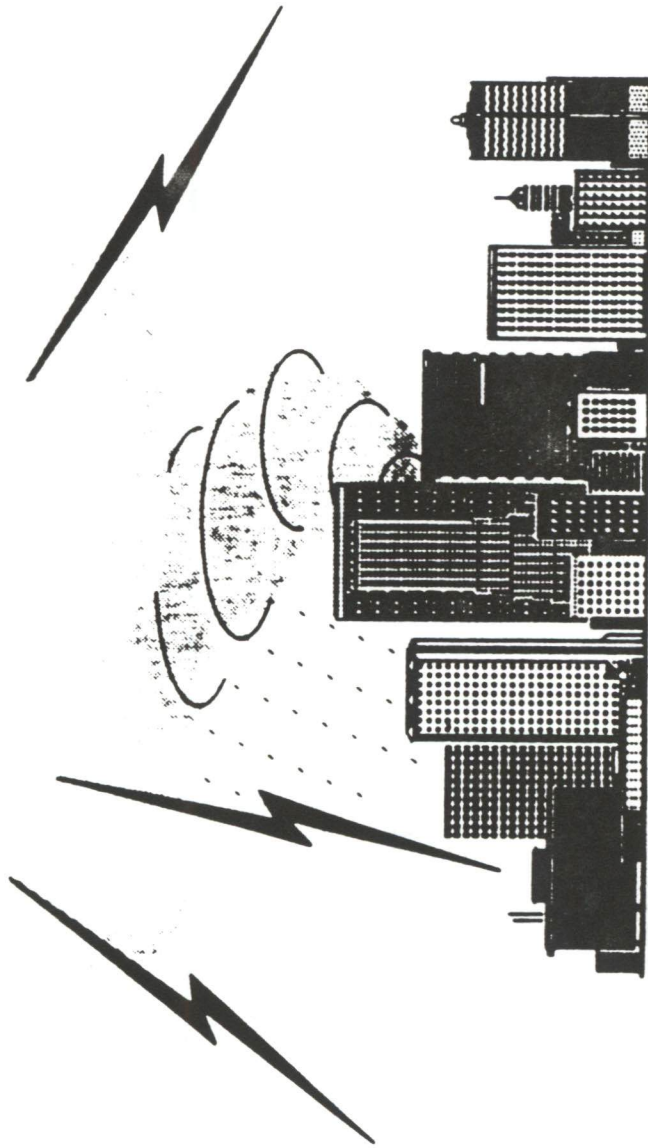
**Prescribes a concept of operations for Federal departments
and agencies responsibilities**

12 ESFs

Currently before Agency/Department Heads for concurrence

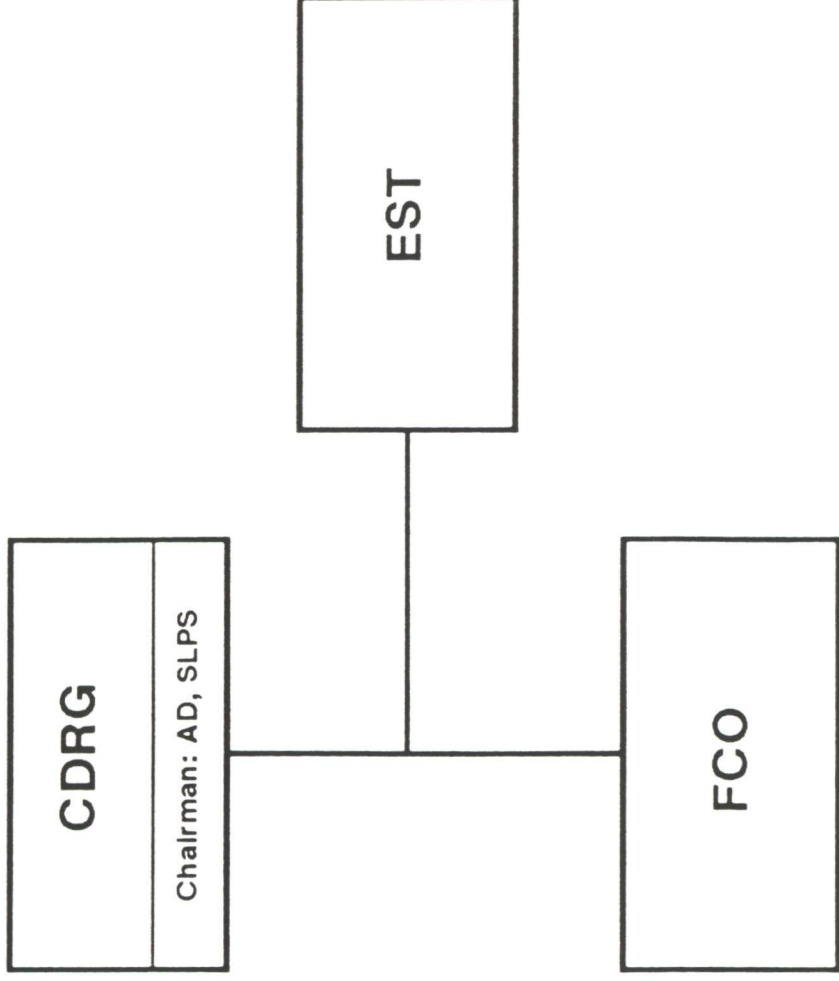
NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

Situations Covered by the Plan



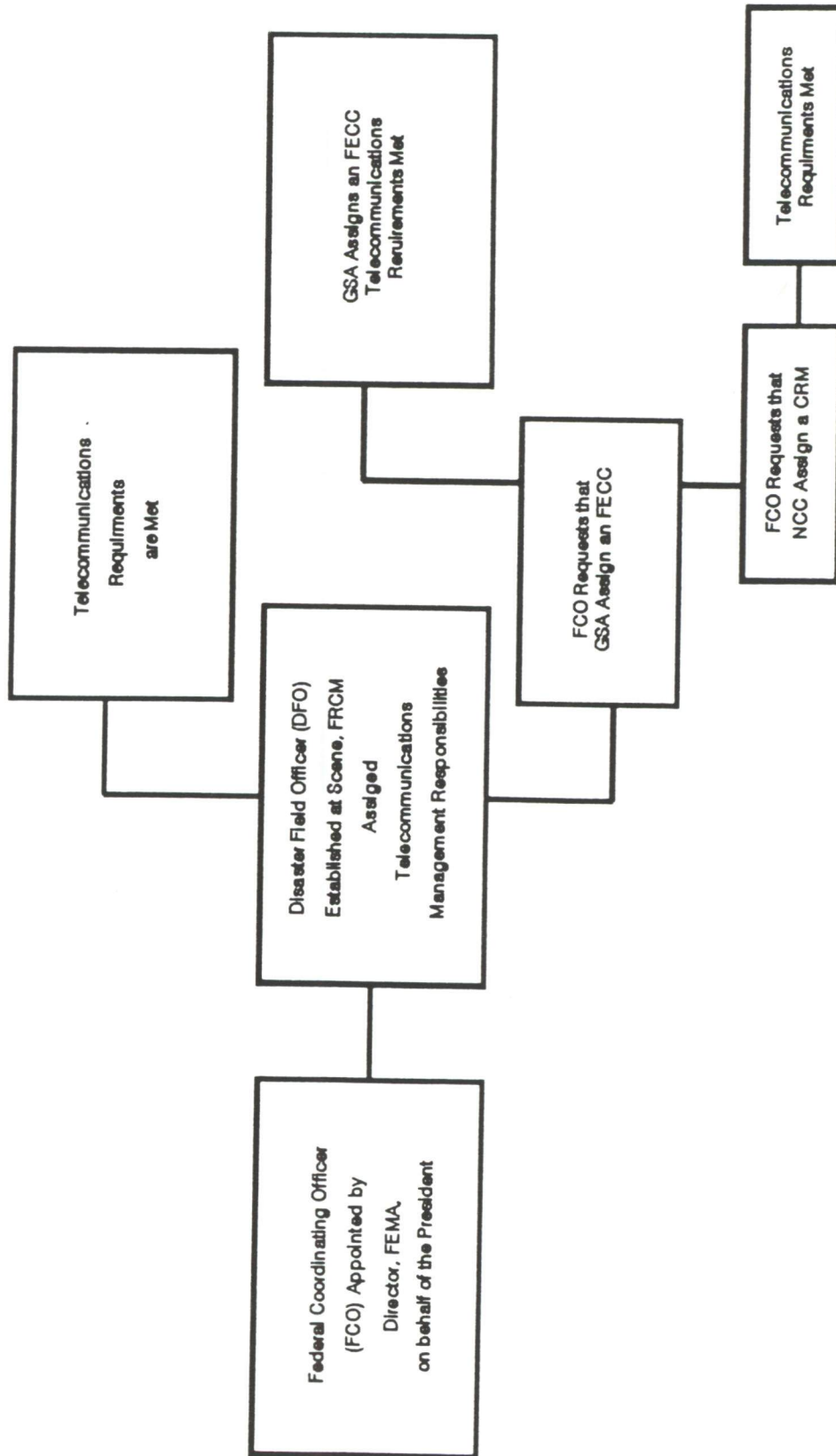
NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

National Level Support Structure



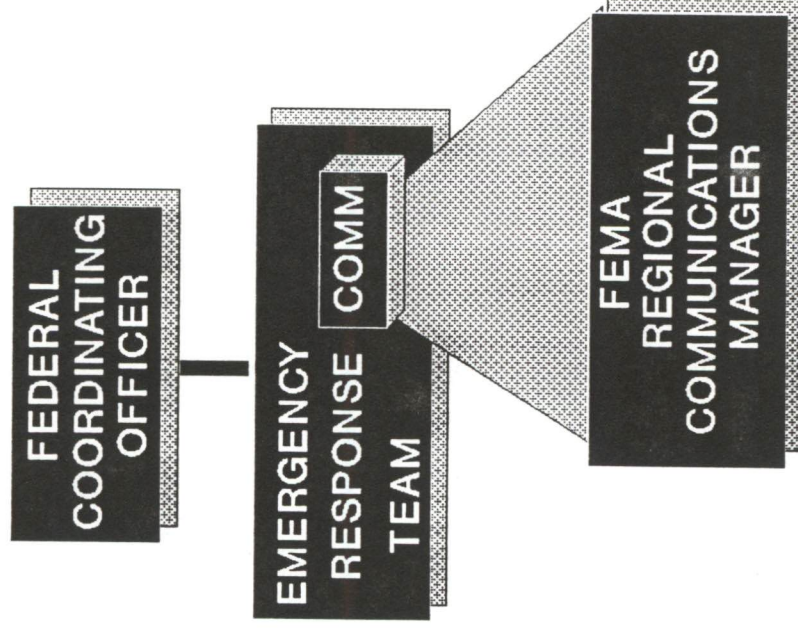
NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

Response Concept



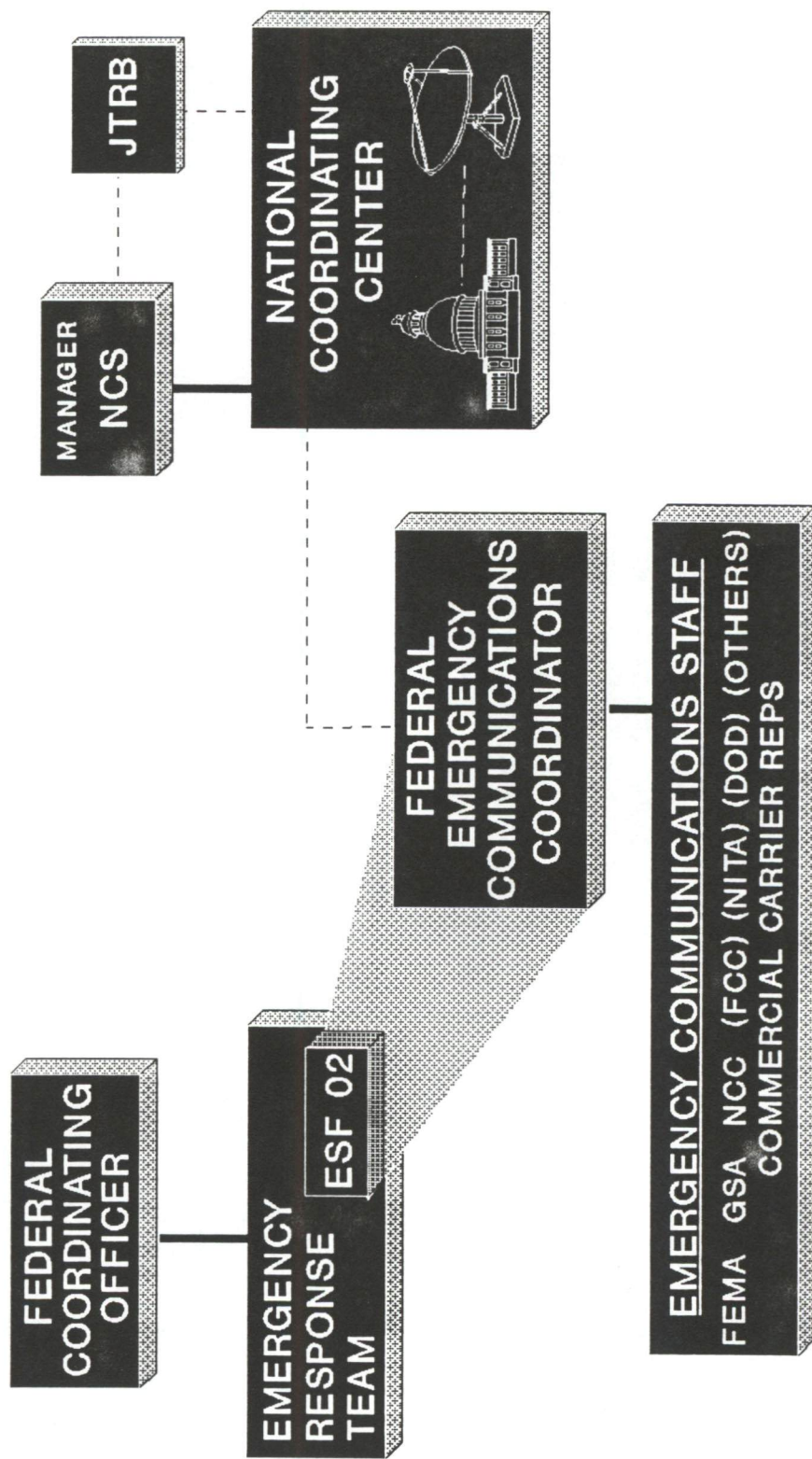
NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

CONCEPT OF OPERATIONS



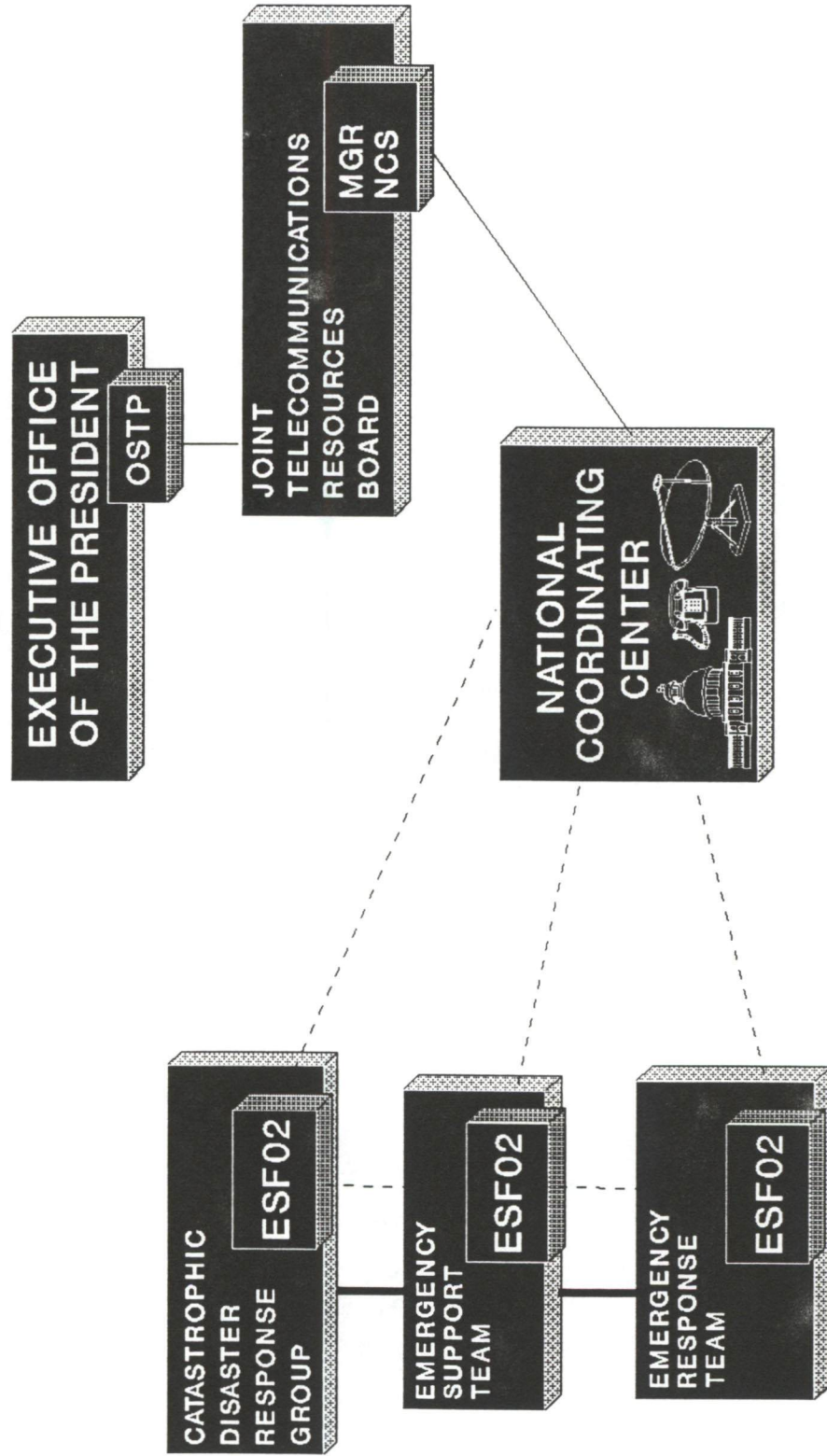
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CONCEPT OF OPERATIONS



NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

CONCEPT OF OPERATIONS



NATIONAL PLAN FOR TELECOMMUNICATIONS SUPPORT IN NON-WARTIME EMERGENCIES

Summary

ESF #2 of the Federal Response Plan is derived
from the National Plan

Requirements Satisfied at the Lowest Level Possible



NATIONAL COMMUNICATIONS SYSTEM
OFFICE OF THE MANAGER
WASHINGTON, D. C. 20305 - 2010

2 June 1986

IN REPLY REFER TO:

NCS-A

MEMORANDUM FOR DISTRIBUTION

Subject: Draft of Major Emergency Action Paper, "Comm-01--Use Presidential War Emergency Powers over National Telecommunication Resources"

1. Request your review and comment by 16 June 1986 regarding subject draft paper, which we have prepared for ultimate incorporation into the Federal Emergency Management Agency's (FEMA) series of Major Emergency Action (MEA) Papers.
2. According to FEMA, the MEA Papers are intended to address a variety of functional areas and designed for use in the option identification phase of the policy process, when a policy-maker's primary concern is to understand the problem, range of available options, and where to find more detailed information. Consequently, in the enclosed draft we have followed FEMA's standard format. However, we have noted in the draft that several appendices (i.e., "Information Requirements," "Benefits and Costs," and "Implementation Outline") are to be provided later. We have not yet developed such appendices because we do not feel they would in this case add to the utility of the Paper.
3. We specifically request your opinion concerning the utility of such appendices. If you think one or more of them would be useful, please recommend the subject, scope and type of information to be included. Comments received before 6 June 1986 will be used to prepare a revised version of the draft for use in the upcoming exercise. Any questions should be addressed to Major Marilyn H. David (746-1275) or myself (692-6957).

MacPherson
J. RANDOLPH MacPHERSON
Chief Regulatory
Counsel-Telecommunications

1 Enclosure
Draft Paper

Distribution:
See enclosed list

Distribution:

National Security Council, Mr. Grimes
Office of Science & Technology Policy,

Col. M. Roesch, Mr. D. Garrett

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Federal Communications Commission, Mr. R. Haller, Mr. S. E. Overby

American Telephone & Telegraph Company, Mr. W. Alderson

Bell Communications Research, Inc., Mr. M. Konow

Defense Communications Agency,

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DCA, Code 603, Mr. D. Havlu

Industry Representatives, NCC

ACTION: COMM-01--USE PRESIDENTIAL WAR EMERGENCY POWERS OVER
NATIONAL TELECOMMUNICATION RESOURCES

Responsible Agency: Office of Science and Technology Policy
(OSTP)

Policy Official: Director, OSTP

Program Official: Manager, National Communications System (NCS)

Date of Paper: 29 May 1986

PURPOSE: To use Section 706, "War Powers of President," of the Communications Act of 1934 (47 United States Code Section 151, et seq.). This allows the President of the United States, during times of emergency or war, to exercise extraordinary management or control over national telecommunication resources in order to meet requirements for telecommunication services beyond those normally provided by or available from individual commercial suppliers or government agencies.

RELEVANT CONDITIONS: The President's various war emergency powers over telecommunications may be used to meet the needs of national defense and/or security only (1) during war involving the US or (2) upon presidential proclamation of a state or threat of war involving the US or a state of public peril, disaster, or other national emergency. The war emergency powers also permit the President during war to use US armed forces to prevent actual or threatened physical obstruction or retardation of interstate and foreign communication, if required in the public interest. The President may use more than one of the war emergency powers at a time.

BACKGROUND:

Legislative history and previous uses of Section 706.

World War I caused Congress to recognize a need for the President to assume control of commercial and private telephone, telegraph, radio, and other telecommunication systems during wartime. According to congressional history, such control was necessary to "insure the continuous operation of electrical communicating systems, to guard the secrecy of war dispatches, and prevent communications between public enemies. . ." (House Report 65-741, 4 July 1918). Hence, Congress passed Public Resolution No. 38, 65th Congress (40 Stat 904, 16 July 1918), granting authority for such control to the President. Congress looked in part to this law in later drafting Section 706 of the Communications Act of 1934, which now conveys similar authority to the President.

Under Public Resolution No. 38, the President in 1918 designated the Postmaster General as his agent to take possession of and control over the operation of telephone and telegraph companies, including even the setting of intrastate rates. The President's power to exercise such control over intrastate and private telecommunication services withstood a series of legal challenges based upon state police power. See Dakota Cent. Telephone Co. v. State of South Dakota ex rel. Payne, 250 U.S. 163, 39 S.Ct. 507 (1919); State v. Public Service Commission, 111 Wash. 130, 188 P. 7 (1920); and State ex rel. Southwestern Bell Telephone Co. v. Public Service Commission, 233 S.W. 425 (Mo. Sup. 1921).

Although this law was repealed later in 1919, Congress subsequently granted similar powers over radio communications again to the President

ENCL.

through the Communications Act of 1934. The Act was amended in 1942 to bring such wire communications as telephone and telegraph systems also once again within the presidential war emergency powers. Congressional thinking recognized that comprehensive presidential control over telecommunications could be pivotal in war or national emergencies. Furthermore, according to Congress,

. . . the difficulty of predicting wartime needs, the great number of [wire communications] companies in the field, and the necessity of swift action in emergency situations makes it essential that authority be granted to the Executive for the taking of immediate and appropriate measures without having to negotiate the transaction and procure the assent of the companies. [House Report No. 77-1546 (18 December 1942), at 3.]

The same rationale probably led President Franklin D. Roosevelt on 6 March 1942 to delegate the exercise of his war emergency powers to the Defense Communications Board. (Reference: Executive Order No. 9089, included at Appendix H.) However, the Board never acted under the war emergency powers but instead served merely as an interface with a cooperative telephone industry.

President Harry S. Truman next acted under the war emergency powers on 10 December 1951, during the Korean War. He delegated to the Federal Communications Commission (FCC) limited authority to minimize the use of radio stations which could aid enemy navigation. (Reference: Executive Order No. 10312, included at Appendix H.) The FCC never exercised the war emergency powers, presumably because the war was limited to a foreign theatre and caused no major destruction of domestic assets.

Current significance of Section 706. Section 706 still is an important presidential tool, due largely to the fact that the federal government is heavily dependent upon commercial communications. Approximately ninety-five percent of the telecommunication services in the continental US and 50 percent overseas are provided for the federal government by commercial carriers.

Non-wartime emergencies. Managing telecommunication resources during civil and non-wartime emergencies is the shared responsibility of the member organizations of the Joint Telecommunications Resources Board (JTRB). See "Alternate Levels of Implementation," below.

Restoration Priority System. Because the federal government relies primarily upon commercial providers for telecommunications required for national defense and crisis response, the National Communications System (NCS)¹ (see footnotes at Appendix A) and Federal Communications Commission (FCC) have jointly promulgated a Restoration Priority (RP) System which prioritizes, during both peacetime and crisis, the restoration of critical federal telecommunication circuits. (Reference: 47 Code of Federal Regulations Section 211, et. seq.) The RP System is one of the mechanisms by which the NCS assists the President, National Security Council, and Director of the Office of Science and Technology Policy (OSTP) in the (1) exercise of their respective national security emergency preparedness (NSEP) responsibilities and (2) coordination of the planning for and provision of

federal government NSEP telecommunications under all circumstances, including emergency, attack, or war. The Manager, NCS, monitors the status of critical situations which could develop into emergencies or major disasters, provides recommendations concerning telecommunication resources and national priorities, and maintains working relationships with commercial telecommunication service providers through the National Coordinating Center (NCC).² (See footnotes at Appendix A.) The federal government, telecommunications industry, and NCC use the "NSEP Telecommunications Procedures" (June 1985) to guide their activities with respect to provisioning and restoration of NSEP telecommunication services. (An NSEP Telecommunication Services Priority System is currently under development to replace the RP System.)

However, when national defense and security call for more pervasive control over telecommunications resources, Congress intended for the President to use war emergency powers under Section 706 of the Communications Act of 1934.

ALTERNATE LEVELS OF IMPLEMENTATION:

a. Use of War Emergency Powers under Section 706. Presidential war emergency powers may be divided into the following five categories, each having its own conditions precedent for use. More than one power may be exercised contemporaneously, as long as conditions precedent for each power are satisfied.

(1) War Emergency Powers under Subsection 706(c): All Radio Communications.

During periods of (a) war involving the US, (b) threat of war involving the US, (c) state of public peril or disaster or other national emergency, or (d) a need to preserve the neutrality of the US: The President may suspend or amend FCC-prescribed rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the US. Such stations and devices include those involved in radio, microwave, and satellite links; other telecommunication services whose transmission paths are not confined to wire or cable; and such other electromagnetic services as radar.³ (See footnotes at Appendix A.) This section does not pertain to telephone exchange or other services which use solely undersea, fiber optic, or metal cable.

Other conditions precedent:

(a) The President must find the action necessary for national defense or security.

(b) The President must issue a proclamation that (i) war involving the US; (ii) threat of war involving the US; or (iii) state of public peril or disaster or other national emergency, as applicable, exists.

(c) No such proclamation is necessary if the war emergency powers are being used solely in response to a need to preserve the neutrality of the US. In such a case, however, the President must at the least determine the existence, and is advised to proceed as well with a proclamation, of a need to preserve the neutrality of the US. [Reference: 47 United States Code Subsection 706(c).]

Note: Additional presidential war emergency powers may be exercised over stations or devices capable of emitting electromagnetic radiations within the standards set out in paragraph (2) below. Note, also, the prevailing technological tendency to utilize both wire/cable and electromagnetic radiating stations and devices in providing a single telecommunications service. As a result, presidential war emergency power, broader than is allowed under this section alone, may be exercised over the wire/cable portion of such a service under Subsection 706(d), as described in paragraph (3) below. Thus, use of this portion of Subsection 706(c) should be accompanied by simultaneous use of Subsection 706(d).

(2) War Emergency Powers under Subsection 706(c): Radio Communications between 10 KiloHertz and 100,000 MegaHertz.

During periods of a) war involving the US, (b) threat of war involving the US, (c) state of public peril or disaster or other national emergency, or (d) a need to preserve the neutrality of the US: The President may cause the closing of, removal of apparatus and equipment from, or authorize US governmental use or control of any station for radio communication or any device capable of emitting electromagnetic radiations between 10 kiloHertz and 100,000 megaHertz which is suitable for use as a navigational aid beyond five miles. Such stations and devices include commercial and public broadcast television stations; amateur and citizen band radio sets; and MUSAK broadcast systems; as well as radio, laser, and sonar devices designed primarily for navigational purposes.³ (See footnotes at Appendix A.)

Other conditions precedent:

(a) The President must find the action necessary for national defense or security.

(b) The President must issue a proclamation that (i) war involving the US; (ii) threat of war involving the US; or (iii) state of public peril or disaster or other national emergency, as applicable, exists.

(c) No such proclamation is necessary if the war emergency powers are being used solely in response to a need to preserve the neutrality of the US. In such a case, however, the President must at the least determine the existence, and is advised to proceed as well with a proclamation, of a need to preserve the neutrality of the US. [Reference: 47 United States Code Subsection 706(c).]

Note, as above, the prevailing technological tendency to utilize both wire/cable and electromagnetic radiating stations and devices in providing a single telecommunications service. As a result, presidential war emergency power, broader than is allowed under this section alone, may be exercised over the wire/cable portion of such a service under Subsection 706(d), as described in paragraph (3) below. Thus, use of this portion of Subsection 706(c) should also be accompanied by simultaneous use of Subsection 706(d).

(3) War Emergency Powers under Subsection 706(d): All Wire Communications.

During periods of a) war, or (b) threat of war, involving the US: The President may suspend or amend FCC-prescribed rules and regulations applicable to, cause the closing of or removal of apparatus and equipment from, or authorize US governmental use or control of any or all facilities or stations for wire communications within US jurisdiction. Such facilities and stations include those used to provide such services as telephone, telegraph, and datafax.³ (See footnotes at Appendix A.)

Other conditions precedent:

(a) The President must find the action necessary for national defense and security.

(b) The President must issue a proclamation that war or threat of war involving the US; as applicable, exists. [Reference: 47 United States Code Subsection 706(d).]

Note, as above, the prevailing technological tendency to utilize both wire/cable and electromagnetic radiating stations and devices in providing a single telecommunications service. As a result, wire/cable services frequently interconnect with microwave or satellite links, which qualify for treatment only under Subsection 706(c) above. Thus, use of this subsection, 706(d), should always be accompanied by the simultaneous use of Subsection 706(c).

(4) War Emergency Powers under Subsection 706(a): All Telecommunications.

During a war involving the US: The President may direct that communications essential to national defense and security have preference or priority with any commercial or governmental carrier. The President may issue such orders directly, through designated persons, or through the Federal Communications Commission (FCC).

Other conditions precedent:

(a) The President must find the action necessary for national defense and security.

(b) The required state of war is a position reached either by a Congressional declaration of war under Article 1, Section 8, Clause 11 of the US Constitution or by a direct attack on the US. [Reference: 47 United States Code Subsection 706(a).]

(5) War Emergency Powers under Subsection 706(b): Interstate or Foreign Telecommunications.

During a war involving the US: The President may use the armed forces to prevent actual or threatened physical obstruction or retardation of interstate or foreign communication.

Other conditions precedent:

(a) The President must find the action required in the public interest.

(b) The required state of war is a position reached either by a Congressional declaration of war under Article 1, Section 8, Clause 11 of the US Constitution or by a direct attack on the US. [Reference: 47 United States Code Subsection 706(b).]

b. Emergency Communications Management Short of Using Presidential War Emergency Powers under Section 706. Crises and emergencies with significant telecommunications implications, yet where presidential war emergency powers under Section 706 have not been or cannot be used, may be referred for action either to the FCC or Joint Telecommunications Resources Board (JTRB).

(1) The Director, Office of Science and Technology Policy (OSTP) chairs the JTRB. The following organizations, represented by the officials noted, are Board members: Department of Defense, by the Assistant Secretary for Command, Control, Communications and Intelligence; Department of Commerce, by the Assistant Secretary for Communications and Information; General Services Administration, by the Commissioner, Information Resources Management Service; Federal Emergency Management Agency (FEMA), by the Assistant Associate Director for Information Resources Management; FCC, by the Defense Commissioner; and National Communications System (NCS), by the Manager. (Reference: Section 2(b), Executive Order 12472, 49 Fed. Reg. 67, 5 April 1984)

(2) Such crises and emergencies include (a) emergencies and major disasters declared by the President; (b) extraordinary situations declared by FEMA; and (c) critical situations having potential to develop into emergencies, major disasters, or extraordinary situations declared by the President or FEMA. (Reference: JTRB Standard Operating Procedures, July 1985)

(3) Federal departments and agencies will report information regarding such crises or emergencies to the NCS/Defense Communications Agency (DCA) Operations Center (OC), National Coordinating Center (NCC), FEMA Emergency Information Coordinating Center (EICC), or other federal agency operations centers as necessary. (Reference: JTRB Standard Operating Procedures, July 1985)

(4) The Manager, NCS and Director, FEMA will evaluate the information and consult as necessary with the FCC, NCS Executive Agent (Secretary of Defense) and NCS Committee of Principals. If necessary, the Manager, NCS and Director, FEMA will report the information to the chairman, JTRB and White House Crisis Management Center. When needed, the Chairman, JTRB will provide advice and refer the information for action to the President, Board members, and other necessary agencies. Such action may include reprioritizing the restoration of telecommunications services; implementing emergency telecommunications procedures; implementing federal recovery operations under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et. seq.); establishing priorities regarding, and forcing acceptance and performance of, certain telecommunication contracts, and allocating telecommunications equipment and materials, under the Defense Priorities and Allocation System (50 United States Code Appendix Sections 2071-2073, 2151-2157, 2159, and 2163); or merely monitoring potential and actual emergency situations using the resources of the NCC and FEMA EICC. The National Security Council will advise and assist the President in coordinating any such action within the federal government. (Reference: Section 2b, Executive Order 12472, 5 April 1984)

AUTHORITIES: See Appendix F.

EXPECTED BENEFITS: The primary benefit would be permitting the President to take immediate and necessary measures affecting commercial telecommunication services without having to negotiate the transaction or procure the assent of the affected telecommunications companies. This would enhance the national ability to ensure security, priority, and continuous operation of war- or emergency-related telecommunication services; permit improved response to emergency conditions; and contribute to continuity of government.

EXPECTED COSTS: These include, first, financial costs associated with (a) personnel and administrative responsibilities incurred in the course of government management or control of commercial telecommunication companies and (b) compensating affected commercial telecommunications companies for the value of services rendered or appropriated; second, possible degradation of telecommunications support to civil and private sectors; third, possible exposure to (a) lawsuits based on alleged infringement of state police power and (b) liability under the Federal Tort Claims Act (28 United States Code Sections 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671, et. seq.) for compensating telecommunications company customers or employees injured while the affected companies endure federal control; and, fourth, burdening the Executive Branch with responsibility for national telecommunications management, for which it may be under-equipped and ill-trained.

DECISION PROCESS:

a. The JIRB and/or Director, OSTP will determine that (1) existing FCC and JIRB authorities are not adequate to satisfy the telecommunication needs of national defense and/or security, (2) federal control or protection of telecommunication assets (including commercial, private, and/or intrastate) is necessary, and (3) conditions precedent to such federal control or protection, as prescribed in Section 706 (see "Alternate Levels of Implementation," above) have been or will soon be met. The Director, OSTP will normally make this determination in coordination with the Executive Agent, NCS; Chairman/Defense Commissioner, FCC; and other JIRB members, as necessary.

b. The Director, OSTP will coordinate his determination with the Assistant to the President for National Security Affairs. He will also provide a recommendation to use part or all of the war emergency powers, and any other advice and assistance concerning exercise of the war emergency powers, to the National Security Council.

c. The President will adopt or reject the recommendation.

IMPLEMENTATION PROCESS:

a. The President will issue a proclamation or declaration of war or other national emergency in accordance with the National Emergencies Act (50 United States Code Section 1601, et. seq.). The President must specify in the proclamation, declaration, or associated executive order the specific provisions of Section 706 under which action is proposed. Any such proclamation, declaration, or executive order must eventually be published in the Federal Register and transmitted to Congress. (Reference: 50 United States Code Section 1631) In addition, the Executive Branch will transmit to the Congress all significant orders of the President and rules and regulations

issued by executive agencies pursuant to such a presidential proclamation, declaration, or executive order, promptly and with appropriate confidentiality. [Reference: 50 United States Code Section 1641(b).]

b. In the alternative, Congress may declare war. If so, the President should specify in an executive order the power(s) being exercised under the authority of Section 706 of the Communications Act of 1934. Note, however, that a literal reading of Section 706 and pertinent provisions of the National Emergencies Act would allow the President, in the event of such a congressional declaration of war, to employ the war emergency powers enumerated in subsections 706(a) and (b) without such an executive order. (Reference: 47 United States Code Section 706 and 50 United States Code Section 1641) In either case, the Executive Branch must transmit to the Congress all significant orders of the President and rules and regulations issued by executive agencies during or pursuant to any presidentially or congressionally declared war or emergency, promptly and with appropriate confidentiality. [Reference: 50 United States Code Section 1641(b).]

c. After the President issues such a proclamation or executive order specifying the proposed action (or, in the case of congressional declaration of war, upon presidential direction), the Director, OSTP will direct the exercise of the presidential war emergency powers, except for Subsection 706(b). The President has delegated to the OSTP the responsibility for so acting. (Reference: Section 2(a)(2), Executive Order 12472, 5 April 1985)

d. The Executive Agent, NCS and Chairman/Defense Commissioner, FCC will advise and assist the Director, OSTP concerning the exercise of the war emergency powers. (Reference: 47 Code of Federal Regulations Section 202.3)

e. The Manager, NCS will also assist the Director, OSTP by reporting the status of national telecommunication services, providing recommendations with respect to telecommunication resources and national priorities, and giving guidance to government organizations as authorized. (Reference: Paragraph 2.4.2.c, National Coordinating Center Operating Charter, 9 Oct 1985)

f. The National Coordinating Center will serve as a central contact and mechanism for the Manager, NCS to assist the Director, OSTP in directing use of national telecommunication resources to meet NSEP service requirements. (Reference: Paragraph 4.2.3, National Coordinating Center Operating Charter, 9 Oct 1985)

RELATED ACTIONS:

a. If necessary, the President or Congress will declare war under the Constitution of the US or proclaim a national emergency under the National Emergencies Act. (Reference: 50 U.S.C. 1601, et. seq., and Major Emergency Action Paper GO-01, "Declare a National Emergency.")

b. The Director, OSTP must ascertain just compensation for any use or control of telecommunication resources affected under the war emergency powers. On behalf of the President, he will certify the amount to Congress for appropriation and payment to the persons or entities entitled. (Reference: Subsection 706(e), 47 United States Code; and Section 2(a)(2), Executive Order No. 12472.)

c. Federal organizations may act pursuant to the Defense Priorities and Allocation System to effect the (1) rescheduling of production of important defense telecommunications items ahead of other production and (2) allocation of scarce resources to the production of highest-priority defense and essential civilian telecommunication materials, equipment and services. (Reference: 15 Code of Federal Regulations Part 350 and Major Emergency Action Paper IP-01, "Expand and Enforce the Defense Priorities and Allocation System (DPAS).]

d. The President is responsible for maintaining a file and index of all significant presidential orders, including executive orders and proclamations, issued during any presidentially or congressionally declared emergency or war. Each executive agency will maintain a file and index of all rules and regulations issued during such emergency or war pursuant to such declarations. (Reference: 50 United States Code Section 1641(a) and Major Emergency Action Paper IP-01, "Expand and Enforce the Defense Priorities and Allocation System (DPAS).]

APPENDICES:

- A. Footnotes
- B. Examples of Current Telecommunication Technologies Subject to Presidential War Emergency Powers
- C. Information Requirements (To be provided.)
- D. Benefits and Costs (To be provided.)
- E. Implementation Outline (To be provided.)
- F. List of Authorities
- G. Texts of Selected Authorities
 - (1) Section 706 of the Communications Act of 1934
 - (2) Executive Order No. 12472
 - (3) Standard Operating Procedures of the Joint Telecommunications Resources Board
- 706 H. Examples of Standby Documents Employed during Previous Uses of Section 706
 - (1) Executive Order No. 9089
 - (2) Executive Order No. 10312
- I. Standby Documents
 - (1) Proposed executive order prescribing use of presidential or emergency powers pursuant to presidential proclamation (To be provided.)
 - (2) Proposed executive order prescribing use of presidential war or emergency powers pursuant to congressional declaration (To be provided.)

APPENDIX A: FOOTNOTES

¹The NCS consists of the telecommunications assets of the entities represented on the NCS Committee of Principals and an administrative structure entailing an Executive Agent (the Secretary of Defense), Committee of Principals, and Manager. The entities represented on the Committee are those federal organizations, designated by the President, leasing or owning telecommunication facilities or services, or having policy, regulatory, or enforcement responsibilities, of significance to NSEP telecommunications. By direction of the Executive Office of the President, the organizations currently on the Committee of Principals are: Central Intelligence Agency, Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Interior, Department of Justice, Department of State, Department of Transportation, Department of Treasury, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, National Security Agency, National Telecommunications and Information Administration, Organization of the Joint Chiefs of Staff, US Information Agency, and Veterans Administration. The Federal Communications Commission, Federal Reserve System, Nuclear Regulatory Commission, and US Postal Service are participating independent agencies.

²The NCC is a joint industry-government operation staffed by representatives from 12 telecommunications industry entities and the NCS. These entities are involved in responding to the federal NSEP telecommunications service requirements and support planning for a more endurable national and international NSEP telecommunications capability. The NCC's mission is to assist in the initiation, coordination, restoration, and reconstitution of NSEP telecommunication services and facilities.

³See Appendix B for a more detailed listing of current technology in this category.

APPENDIX B:

EXAMPLES OF CURRENT TELECOMMUNICATION TECHNOLOGIES SUBJECT TO PRESIDENTIAL WAR EMERGENCY POWERS

Amateur radio facilities (including independents and Military Affiliate Radio System (MARS) affiliates; fixed station and mobile equipment)	See Notes 1 and 2
Aircraft navigational radio equipment and systems (including Federal Aviation Administration radio and radar systems)	See Notes 1 and 2
Aircraft verbal communication equipment and systems (including air-to-ground radio telephone links for on-board personnel)	See Notes 1, 2, and 3
Cellular radio equipment and systems	See Note 3
Citizen band radio equipment and systems (including vehicular mounts and base stations)	See Note 2
Commercial radio stations (including both amplitude and frequency modulation (AM and FM) transmission equipment)	See Notes 1 and 2
Commercial television stations	See Note 2
Educational, training, and other private television and radio stations (including university and college stations and equipment)	See Note 2
Experimental transmission devices with possible application as guidance systems or navigation aids (including radio, laser, and sonar)	See Notes 1, 2, and 3
Mobile radio equipment and systems	See Note 3
MUSAK broadcast equipment and systems	See Note 2
Paging system transmitters and associated devices	See Notes 1 and 2
Private microwave systems and equipment	See Notes 1 and 3
Public broadcast television stations	See Note 2

Note 1: These are stations or devices capable of emitting electromagnetic radiations and falling under the presidential war emergency powers described in Subsection 706(c) of the Communications Act of 1934. See page 3 of main text.

Note 2: These are stations or devices for radio communication or capable of emitting electromagnetic radiations between 10 kilohertz and 100,000 megahertz which are suitable for use as navigation aids beyond five miles. They fall under the presidential war emergency powers described in Subsection 706(c) of the Communications Act of 1934. See page 4 of main text.

Note 3: These are facilities or stations for wire communications which fall under the presidential war emergency powers described in Subsection 706(d) of the Communications Act of 1934. See page 5 of main text.

APPENDICES C, D, AND E: To be provided.

APPENDIX F: LIST OF AUTHORITIES

- a. Article I, Section 8, Clause 11, Constitution of the US.
- b. Communications Act of 1934, as amended (47 United States Code Section 151, et. seq.).
- c. National Emergencies Act (50 United States Code Section 1601, et seq.).
- d. Executive Order 12472 (49 Federal Register 67, 5 April 1984).
- e. 47 Code of Federal Regulations Section 201, et. seq., 44 F.R. 33404 (June 11, 1979), "Office of Science and Technology Policy and National Security Council." (Note: While these rules are still in effect, they are, in part, out of date due to the realignment of organizational responsibilities in Executive Order No. 12472.)
- f. Standard Operating Procedures of the Joint Telecommunication Resources Board (July 1985)

APPENDIX G: TEXTS OF SELECTED AUTHORITIES

- (1) Section 706 of the Communications Act of 1934
- (2) Executive Order No. 12472
- (3) Standard Operating Procedures of the Joint
Telecommunications Resources Board

¹
§ 606. War powers of President

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

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

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

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

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

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

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47 § 606 WIRE OR RADIO COMMUNICATION

Ch. 5

sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 41 of Title 28, or by section 250 of Title 28.

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

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

(h) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both. June 19, 1934, c. 652, Title VI, § 606, 48 Stat. 1104; Jan. 26, 1942, c. 18, §§ 1, 2, 56 Stat. 18; Dec. 29, 1942, c. 836, 56 Stat. 1096; July 25, 1947, c. 327, § 1, 61 Stat. 449; Oct. 24, 1951, c. 553, §§ 1, 2, 65 Stat. 611.

Historical Note

References in Text. Paragraph 20 of section 41 and section 250 of Title 28, referred to in subsec. (e), were repealed by Act June 25, 1948, ch. 646, § 39, 62 Stat. 902, and are now covered by sections 1346, 1401, 1501, 1503, 2401, 2402, and 2501 of Title 28, Judiciary and Judicial Procedure.

1951 Amendment. Subsec. (c). Act Oct. 24, 1951, § 1, clarified the scope of the President's powers to use, control, and close radio facilities of all kinds

which might be useful to an enemy for navigational purposes.

Subsec. (h). Act Oct. 24, 1951, § 2, added subsec. (h).

1942 Amendment. Subsec. (d). Act Jan. 26, 1942, § 1, added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Act Jan. 26, 1942, § 1, redesignated former subsec. (d) as (e).

Presidential Documents

Executive Order 12472 of April 3, 1984

Assignment of National Security and Emergency Preparedness Telecommunications Functions

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

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

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

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

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

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

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

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

(3) incorporates the necessary combination of hardness, redundancy, mobility, connectivity, interoperability, restorability and security to obtain, to the maximum extent practicable, the survivability of national security and emergency

preparedness telecommunications in all circumstances, including conditions of crisis or emergency; and

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

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

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

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

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

(1) Designate the Manager of the NCS;

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

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

(4) Recommend, in consultation with the NCS Committee of Principals, to the National Security Council, the Director of the Office of Science and Technology Policy, or the Director of the Office of Management and Budget, as appropriate:

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

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

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

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

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

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

(f) The NCS Committee of Principals shall:

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

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

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

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

(g) The Manager of the NCS shall:

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

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

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

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

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

e. Alternative mechanisms for funding, through the budget review process, national security or emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities. Those mechanisms recommended by the NCS Committee of Principals and the Executive Agent shall be submitted to the Director of the Office of Management and Budget.

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

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

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

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

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

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

Sec. 2. Executive Office Responsibilities. (a) *Wartime Emergency Functions.*

(1) The National Security Council shall provide policy direction for the exercise of the war power functions of the President under Section 806 of the Communications Act of 1934, as amended (47 U.S.C. 806), should the President

issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601).

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

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

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

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

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

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

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

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

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

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

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

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

governments and volunteer organizations is mutually supportive and consistent with the planning of the Federal government; and

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

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

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

(1) Plan for and provide, operate and maintain telecommunications services and facilities adequate to support the National Command Authorities and to execute the responsibilities assigned by Executive Order No. 12333; and

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

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

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

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

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

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

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

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

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

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

(1) Consult, as appropriate, with the Director of the Office of Management and Budget; the Director of the Federal Emergency Management Agency with respect to the emergency management responsibilities assigned pursuant to Executive Order No. 12148, as amended; the Secretary of Commerce, with respect to responsibilities assigned pursuant to Executive Order No. 12046; the Secretary of Defense, with respect to communications security responsibilities assigned pursuant to Executive Order No. 12333, and the Chairman of the Federal Communications Commission or his authorized designee; and

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

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

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

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

(2) Develop, maintain and publish policy, plans, and procedures for the control and allocation of frequency assignments, including the authority to amend, modify or revoke such assignments, in those parts of the electromagnetic spectrum assigned to the Federal government.

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

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

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

(3) Ensure, to the maximum extent practicable, that national security and emergency preparedness telecommunications planning by State and local

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

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

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

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

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

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

(5) Consult, consistent with the provisions of Executive Order No. 12046, as amended, and in conjunction with the Manager of the NCS, with the Federal Communications Commission regarding execution of responsibilities assigned by this Order;

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

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

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

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

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

(1) Sections 2-414, 4-102, 4-103, 4-202, 4-302, 5-3, and 6-101 of Executive Order No. 12046, as amended, are revoked;

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

(3) Section 2-411 of Executive Order No. 12046, as amended, is further amended by deleting the period and inserting ", except as otherwise provided by Executive Order No. " and inserting the number assigned to this Order.

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

under any other law; or any function vested by law in the Federal Communications Commission.

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

Ronald Reagan

THE WHITE HOUSE,
April 3, 1984.

[FR Doc. 84-0285

Filed 4-3-84; 4:47 p.m.]

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**NATIONAL COMMUNICATIONS SYSTEM
DIRECTIVE 3-4 (NCSD 3-4)**

**NATIONAL TELECOMMUNICATIONS
MANAGEMENT STRUCTURE (NTMS)**

**THE OFFICE OF THE MANAGER
NATIONAL COMMUNICATIONS SYSTEM
8th & South Courthouse Road
Arlington, Virginia 22204**

NATIONAL COMMUNICATIONS SYSTEM
Washington, D.C. 20305-2010

NCS DIRECTIVE 3-4

TELECOMMUNICATIONS OPERATIONS

National Telecommunications Management Structure (NTMS)

1. Purpose. This directive establishes the National Telecommunications Management Structure (NTMS), describes its components, and broadly describes the administrative responsibilities of the Manager, NCS and participating NCS member organizations.
2. Applicability. This directive is binding on the Executive Agent, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities. This directive is not intended to interfere with the special operational or security requirements of any agency during normal or wartime situations.
3. Authority. This directive is issued under the authority of Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 Federal Register 13471 (1984); White House letter, National Security Telecommunications Advisory Committee (NSTAC) Activities, July 11, 1988; and NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.
4. References.
 - a. The Communications Act of 1934, as amended, Section 706 (47 U.S.C., Section 606).
 - b. National Emergencies Act of 1976 (50 U.S.C. 1601 et seq.).
 - c. Executive Order 12472 of April 3, 1984, "Assignment of National Security and Emergency Preparedness Telecommunications Functions."

-Office of Primary Responsibility: NCS-PP
-Distribution: NCS

5. Definitions.

a. National Telecommunications Management Structure (NTMS). The NTMS is an emergency telecommunications management structure consisting of national and regional management elements and government and telecommunications industry operating centers that, when activated, shall provide emergency telecommunications management services in response to national security and emergency preparedness (NS/EP) requirements and objectives in accordance with references a. and b.

b. National Telecommunications Coordinating Network (NTCN). The NTCN provides the essential communications connectivity to support NTMS elements.

c. Emergency Preparedness Management Information System (EPMIS). The EPMIS is the telecommunications management information system designed to support NTMS operations at national and regional levels.

d. National Coordinating Center (NCC). The NCC is a jointly staffed and operated government and telecommunications industry center. The NCC assists in the initiation, coordination, restoration and reconstitution of the Federal Government's NS/EP telecommunications service requirements.

e. National Emergency Management Team (NEMT). The NEMT is a functionally organized, national level emergency management team composed of representatives from the Executive Branch of the Federal Government and selected industries.

f. National Emergency Management Team Communications Functional Group (NEMT CFG). The NEMT CFG is one of the functional groups of the NEMT, and is composed of Office of Science and Technology Policy (OSTP), Office of the Manager, NCS (OMNCS), NCS member organization and telecommunications industry representatives. The NEMT CFG is to be activated by national authorities in response to those crises and national emergency situations in which the President may invoke the provisions of Section 706 of the Communications Act of 1934, as amended. When so activated, the NEMT CFG will provide policy, direction and guidance for NS/EP telecommunications management, and serves as the highest level of the NTMS.

g. Regional Emergency Management Team Communications Functional Group/Regional Coordinating Center (REMT CFG/RCC). The REMT is the functionally organized regional equivalent of the

NEMT. The REMT CFG/RCC is the REMT functional group composed of regionally based Federal field establishment and telecommunications industry representatives. It is the NTMS organizational element tasked to provide direction and guidance for NS/EP telecommunications management in the Region. The REMT CFG/RCC is also capable of serving as an alternate NCC.

h. NTMS Government and Industry Operating Centers (OCs). Government and telecommunications industry facilities constitute the basic operating and coordinating organization for the nation's telecommunications management infrastructure. The NTMS OCs are selected to coordinate technical telecommunications activities at the local level in response to guidance and direction from the REMT CFG/RCC to which assigned.

(1) Industry OCs manage and coordinate the restoration and reconstitution of the telecommunications services provided.

(2) Government OCs coordinate communications support, and manage/operate communication facilities.

6. Policy. It is the policy of the United States to develop and implement a survivable and enduring telecommunications management structure to support national security and emergency preparedness requirements for use after the invocation of Section 706 of the Communications Act of 1934, as amended. The overall governing objective of the NTMS, as established herein, is to provide for a survivable and enduring functionally organized telecommunications management structure capable of coordinating the recovery and reconstitution of the nation's telecommunications infrastructure to meet essential NS/EP needs.

a. NTMS Components. The NTMS shall be composed of the NCC, the NEMT CFG, REMT CFG/RCCs and NTMS OCs.

b. Activation, Direction and Control. The NTMS shall be activated by and respond to the guidance and direction of the Director, OSTP, in the execution of the functions of the President under Section 706 (a), (c)-(e), of the Communications Act of 1934, as amended, should the President issue implementing instructions in accordance with the National Emergencies Act of 1976 (50 U.S.C. 1601 et seq.).

c. Coordinating Instructions.

(1) In all instances prior to the invocation of Section 706 of the Communications Act of 1934, as amended, the NCC shall monitor the status of the nation's telecommunication resources and respond to NS/EP requirements as directed by the

Director, OSTP, and the Manager, NCS, or their designated representatives.

(2) Upon invocation of Section 706, the Director, OSTP, shall assume direction and control of national telecommunication resources and determine priorities for their allocation and use. The NTMS shall assist the Director, OSTP, in the exercise of his emergency authority relative to policy direction and management of national telecommunications resources.

7. Responsibilities.

a. NCS Member Organizations Participating in NTMS:

(1) Will support the implementation and operation of the NTMS, as mutually agreed to by the participating NTMS organizations and the OMNCS.

(2) Will assist the OMNCS with government NTMS Operating Center nominations.

(3) Will for those Operating Centers selected, assist in preparations to include necessary modifications for equipment installation, logistics support, equipment and life support supplies storage, and personnel selection and training.

(4) Will assist the OMNCS with the planning and conduct of NTMS tests, exercises and evaluations when requested and as scheduled by the NCS exercise master plan.

b. The NCS Committee of Principals and Executive Agent:

(1) Will consider and approve other NTMS issuances.

(2) Will review and provide comments regarding NTMS operating concepts, plans and policies to the Executive Office of the President.

c. The Manager, NCS:

(1) Will provide overall NTMS program management.

(2) Will ensure the funding for the NTMS.

(3) Will develop NTMS policies, plans and procedures as the designated focal point for NEMT CFG and REMT CFG/RCC operational matters in coordination with OSTP.

(4) Will coordinate NTMS operational issues and requirements with OSTP, NCS member organizations and telecommunications industry entities participating in the NTMS.

(5) Will coordinate NTMS program activities, as appropriate, with the Executive Office of the President; Executive Agent, NCS; NCS Committee of Principals; NCS member organizations and the telecommunications industry.

(6) Will provide for planning, implementation and management of the NTMS program.

(7) May propose subjects for and develop new NTMS issuances, and propose changes in existing issuances.

(8) Will forward NCS NTMS issuances and any comments thereon to the NCS Committee of Principals; Executive Agent, NCS; and/or Executive Office of the President, as required.

(9) Will implement test and exercise programs and develop procedures for the evaluation of the NTMS capability to meet national security and emergency preparedness telecommunications requirements.

d. Federal Emergency Management Agency:

(1) Will assist the OMNCS with NTMS implementation and planning in support of the NEMT and REMT CFG/RCCs.

(2) Will assist the OMNCS with NTMS activities and exercises when the NEMT and REMT CFG/RCCs are to be employed.

(3) Will assist the OMNCS and the telecommunications industry in establishing procedures for connectivity with FEMA FRCs.

e. General Services Administration:

(1) Will provide assistance to the OMNCS with NTMS implementation and planning in support of the NEMT and REMT CFG/RCCs.

(2) Will provide the REMT CFG/RCC Leader and assist in staffing the NEMT and REMT CFG/RCCs.

(3) Will provide assistance to the OMNCS with REMT CFG/RCC planning, staff selection, training, exercises and other activities.

8. Authorizing Provisions. NCS circulars, manuals, handbooks, and notices implementing this directive are hereby authorized.

9. Effective Date. This directive is effective immediately.

10. Expiration. This directive will remain in effect until superceded or cancelled.

Director
Office of Science and Technology Policy
Date:

Director
Office of Management and Budget
Date:

Assistant to the President for
National Security Affairs
Date:

Summary of Changes: Initial Issuance.



NATIONAL COMMUNICATIONS SYSTEM

OFFICE OF THE MANAGER
WASHINGTON, D.C. 20305 - 2010

IN REPLY NCS-JS
REFERTO:

22 September 1989

MEMORANDUM FOR DISTRIBUTION

SUBJECT: National Security and Emergency Preparedness Telecommunications Management Overview

1. The National Security and Emergency Preparedness (NS/EP) Telecommunications Management Overview document (enclosed) is officially released for your information and use.
2. The document has been developed over the course of several years, and has been reviewed and endorsed by the National Communications System (NCS) Council of Representatives. The purpose of the document is to provide an overview of Federal Government NS/EP telecommunications response plans across a spectrum of emergencies, including domestic as well as national security emergencies. The document describes the overall framework established for emergency management and response by the NCS and offers a general description of response plans for the major types of operating conditions identified in Executive Order 12472.
3. For further information on the document, please contact Ms. Karen Burcham of my staff at 692-9274.

1 Enclosure:
Management Overview


JOHN T. MYERS
Lieutenant General, USA
Manager

Withdrawal/Redaction Sheet

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04a. List	Distribution List [50 USC 403g, Sec 6] (1 pp.)		(b)(3), (b)(7c)	

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Record Group: Bush Presidential Records
Office: Science and Technology Policy, Office of (OSTP)
Series: O'Neil, John F., Files
Subseries: Telecommunications Files
WHORM Cat.:
File Location: National Communication Systems

Date Closed:	6/3/2010	OA/ID Number:	62106-004
FOIA/SYS Case #:	2005-0336-F	Appeal Case #:	
Re-review Case #:		Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
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DOI	Mr. James P. Jadlo
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