

Originally Processed With FOIA(s):
2005-0336-F

FOIA Number:
2005-0336-F

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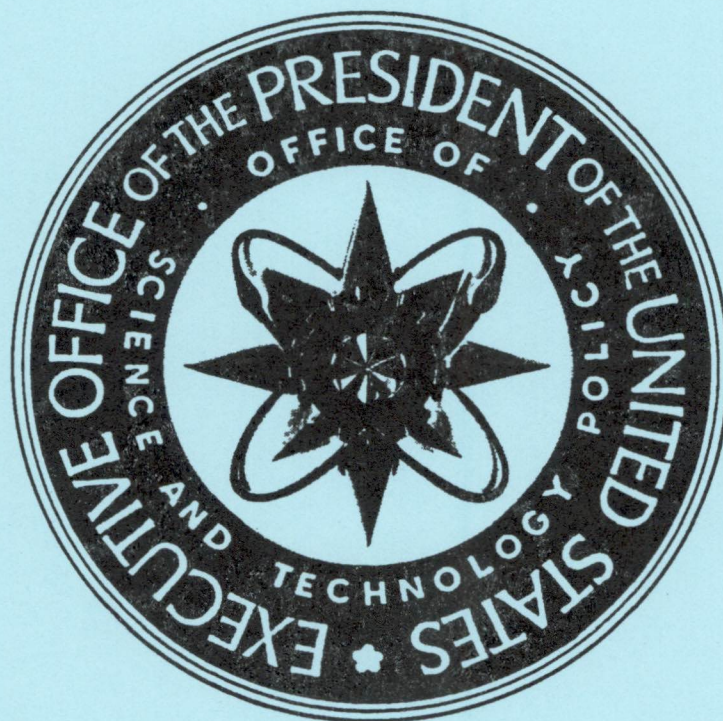
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***Office of Science and
Technology Policy***

***Telecommunications Management
Reference Manual***



August 31, 1992

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. 386, 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 reconstitution.

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

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

(2) Is capable of satisfying priority telecommunications requirements under all circumstances

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

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

Sec. 2. Executive Office Responsibilities. (a) Wartime Emergency Functions. (1) The National Security Council shall provide policy direction for the exercise of the war power functions of the President under Section 606 of the Communications Act of 1934, as amended (47 U.S.C. 606), 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, allocations, 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 provisions, management, or allocations of telecommunications resources, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law;

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

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

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

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

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

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

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

(4) The National Security Council, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget shall, in consultation with the Executive

Agent for the NCS and the NCS Committee of Principals, determine what constitutes national security and emergency preparedness telecommunications requirements.

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

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

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

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

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

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

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

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

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

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

(5) Consult, consistent with the provisions of Executive Order No. 12046, 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;

(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) Section 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.

THE WHITE HOUSE
April 3, 1984

Tuesday
December 11, 1990

47 CFR Part 201 et al.

Part IV

**Office of Science
and Technology
Policy**

National Security Council

47 CFR Part 201, et al.
National Communications System; Final
Rule

**OFFICE OF SCIENCE AND
TECHNOLOGY POLICY**

National Security Council

**47 CFR Parts 201, 202, 212, 214, 215
and 216**

National Communications System

AGENCIES: Office of Science and
Technology Policy and National
Security Council.

ACTION: Notice of amendments to final
rules.

SUMMARY: Executive Order 12472, April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193) redefined the functions and organization of the National Communications System, and established the responsibilities of executive offices for both wartime and non-wartime national security and emergency preparedness (NS/EP) telecommunications services. These amendments to 47 CFR chapter II document the policy changes embodied in the Executive Order, and otherwise revise parts 201, 202, 212, 214, 215 and add part 216 consistent with current NS/EP telecommunications procedures.

EFFECTIVE DATE: December 11, 1990.

FOR FURTHER INFORMATION CONTACT:

Robert Anderson, Office of the Assistant Secretary of Defense (Command, Control, Communications & Intelligence), Pentagon, Washington, DC (202) 697-7626.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Parts 201 and 202

Civil defense, Communications common carriers, Defense communications, Emergency powers, National Communications System, Telecommunications.

47 CFR Part 212

Civil defense, Communications common carriers, Defense communications, Emergency powers, Science and technology, Telecommunications.

47 CFR Part 214

Civil defense, Defense communications, Emergency powers, Radio, Science and technology.

47 CFR Part 215

Civil defense, Defense communications, Research, National Communications System, Science and technology, Telecommunications.

47 CFR Part 216

Civil defense. Defense communications, National Communications System, Organization and functions (Government agencies), Radio, Telecommunications.

Parts 201, 202, 212, 214 and 215 of 47 CFR chapter II are revised and part 216 is added to read as set forth below.

Dated: June 14, 1990.

D. Allan Bromley,

Director, Office of Science and Technology Policy.

Dated: October 8, 1990.

Brent Scowcroft,

Assistant to the President for National Security Affairs.

PART 201—EXECUTIVE POLICY

Sec.

201.0 Background.

201.1 Authority.

201.2 Definitions.

201.3 Policy.

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, 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).

§ 201.0 Background.

National policy with respect to the conservation, allocation and use of the Nation's telecommunications resources during crises and emergencies is set forth in Executive Order 12472. The following parts of this chapter address specific responsibilities with respect to management of telecommunications resources and related procedures which bear upon provision, restoration and continuity of telecommunications services during crises and emergencies. In doing so, the chapter encompasses both national security and emergency preparedness activities, consistent with Executive Order 12472. This concept of national security and emergency preparedness telecommunications services (as defined in § 201.2(g)) includes crises that do not necessarily entail serious degradation of, or serious threats to, national security. It therefore is a broader concept than the term "national security emergency preparedness activities" in Executive Order 12656, which concerns only national security emergencies, and preparedness activities necessarily related to such emergencies.

§ 201.1 Authority.

(a) Authorities and responsibilities related to and bearing upon national security and emergency preparedness

telecommunications matters are set forth in:

(1) Section 706 of the Communications Act of 1934 (48 Stat. 1104, 47 U.S.C. 606), as amended.

(2) The National Security Act of 1947, as amended (61 Stat. 496, 50 U.S.C. 402).

(3) The Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2251 *et seq.*).

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

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

(6) Executive Order 12046, "Relating to the Transfer of Telecommunications Functions," March 27, 1978 (43 FR 13349; 3 CFR, 1978 Comp., p. 158).

(7) Executive Order 12472.

"Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

(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).

§ 201.2 Definitions.

The following definitions apply herein:

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

(b) *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.

(c) *Joint Telecommunications Resources Board (JTRB)* means that organization established by the Director, Office of Science and Technology Policy, pursuant to Executive Order 12472 to assist the Director, OSTP, in exercising the non-wartime emergency telecommunications functions assigned by Executive Order 12472.

(d) *The National Communications System (NCS)* means that organization established by Executive Order 12472 consisting 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 consists 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 and emergency preparedness, and, to the extent permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security and emergency preparedness telecommunications capabilities. The NCS is a confederative arrangement in which member 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.

(e) *National Coordinating Center (NCC)* refers to the joint industry-government telecommunications entity established by the NCS pursuant to Executive Order 12472 to assist in the initiation, coordination, restoration and reconstitution of national security and emergency preparedness telecommunications services or facilities under all conditions of crisis or emergency.

(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) *National security and emergency preparedness (NS/EP) telecommunications services, or NS/EP services*, means those telecommunication services which are used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international) which causes or could cause injury or harm to the population, damage to or loss of property, or degrades or threatens the NS/EP posture of the United States.

(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 warpower 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-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.

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

(b) The President has limited non-wartime NS/EP telecommunications functions, and wartime NS/EP functions under the Communications Act of 1934 (as amended), which have been delegated to Federal agencies under Executive Order 12472. Federal, State, and local governments share the responsibility for conservation of the Nation's telecommunications resources.

(1) The achievement of survival and recovery during a crisis or emergency would establish an unavoidable interdependence between and among Federal, State, and local authorities; therefore, there should be no barriers between Federal and State levels of authorities and between State and local levels of authorities which would impede, obstruct, or otherwise hinder effective conservation and equitable allocation of telecommunications resources 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. Applicable regulations of the Federal Communications Commission govern the extent of the allocation of responsibility between Federal and State authorities for the management of NS/EP intrastate carrier services and the interconnectivity of intrastate services for NS/EP telecommunications functions.

(c) A system of telecommunications service priorities will be established which facilitates the provisioning and early restoration of services considered vital to national interests during those

events or crises which warrant NS/EP treatment.

(d) The President is authorized during, or in anticipation of, an emergency or major disaster (as defined in the Disaster Relief Act of 1974) to establish temporary telecommunications systems and to make such telecommunications available to State and local government officials and such other persons as deemed appropriate (42 U.S.C. 5185).

(e) The President also is authorized, during war, when necessary in the interest of national defense and security, to direct or establish priorities for essential communications with any commercial or governmental carrier and to prevent obstruction of telecommunications. The President may also suspend or amend rules and regulations, close stations and facilities, and authorize U.S. government use and control of telecommunications resources with regard to:

(1) Radio communications (during war, or Presidentially declared threat of war, public peril, disaster or national emergency or a need to preserve the neutrality of the U.S.) and

(2) Wire communications (during war or threat of war).

(f) During an attack on the United States by an aggressor nation, and in an immediate postattack period, all decisions regarding the use of telecommunications 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 response, and economic activities essential to continued economic survival and recovery.

(g) The Director of the Office of Science and Technology Policy will serve as the central authority to control, coordinate, and direct the activities of the Nation's telecommunications facilities, systems, and services during periods of wartime emergency as determined under section 706 of the Communications Act of 1934 (47 U.S.C. 606), as amended.

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

(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.

PART 202—NATIONAL SECURITY AND EMERGENCY PREPAREDNESS PLANNING AND EXECUTION

Sec.

202.0 Objectives.

202.1 Policies.

202.2 Criteria and guidance.

202.3 Plans preparation and execution.

Authority: 81 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. 11021, May 7, 1962 (27 FR 4409; 3 CFR, 1959-1963 Comp., p. 600); E.O. 12472, April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

§ 202.0 Objectives.

(a) During, or in anticipation of, a non-wartime emergency or natural disaster, a telecommunications capacity must exist to provide temporary telecommunications service to State and local government officials and other persons deemed appropriate by the President.

(b) In the event of a general war and attack upon the Nation, a national telecommunications capability must exist that will support telecommunications requirements with respect to national security, survival and recovery. The development of survivable telecommunications to support essential functions (including an emergency broadcasting system), and technical compatibility of signaling methods, transmission modes, switching facilities, and terminal devices to permit exchange of communications over the surviving media of all systems, government or commercial, are crucial elements of such a national capability. In addition, a survivable national 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.

§ 202.1 Policies.

(a) The telecommunications resources of the Nation will be available for government use during crises and emergencies, wartime and non-wartime, and to satisfy the needs of the public welfare and safety.

(b) The National Plan for Telecommunications Support in Non-Wartime Emergencies provides procedures for planning and using National telecommunications assets and resources in support of non-wartime emergencies, including those covered by the Disaster Relief Act of 1974, in Presidentially declared Emergencies and Major Disasters, Extraordinary Situations, and other emergencies.

(c) An NS/EP Telecommunications Service Priority (TSP) System will provide procedures to authorize priority treatment for the provisioning and restoration of NS/EP telecommunications services for wartime and non-wartime emergencies.

(d) In wartime emergencies, 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 such 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 authorized common carrier 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 not subject to FCC jurisdiction.

(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.

(e) The Director of the Office of Science and Technology Policy is the single point of authority within the Federal Government for the wartime emergency functions under section 706 of the Communications Act (47 U.S.C. 606) with respect to the allocation and use of surviving resources in support of national objectives enunciated by the President. Authority may be re delegated as necessary and when it can be exercised within boundaries established by Presidential authority.

(f) Radio frequency utilization during a wartime 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 Director, OSTP, under the President's War Emergency Powers, spectrum management regarding the authorization and assignment of radio frequencies will be made by the National Telecommunications and Information Administration (NTIA) for the Federal Government, and the Director, OSTP, through the FCC, for all other entities subject to the Commission's jurisdiction. Radio stations are subject to closure if considered a threat to national security.

(g) Section 706 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 during wartime emergencies.

§ 202.2 Criteria and guidance.

NS/EP planning in government and industry with respect to effective conservation and use of surviving telecommunications resources in a disaster, emergency or postattack period must provide for orderly and uninhibited restoration of services by the carriers and authoritative control of services allocation which will assure that priority 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 wartime or non-wartime emergencies is of the utmost importance. This can best be accomplished by centralized policy development, planning, and broad direction. Detailed operations management will remain decentralized in order to retain flexibility in the use of individual systems in responding to the

needs of national security, survival and recovery. Each Federal agency responsible for telecommunications systems operations, and the carriers, are responsible for planning with respect to emergency operations. Guidance in this matter has been issued from a number of sources and contained in:

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

(2) National Plan for Telecommunications Support in Non-wartime Emergencies.

(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 priority is given to vital services. NS/EP telecommunications services entail policies, procedures and responsibilities as described in parts 211 and 213 of this chapter.

(c) The Nation's telecommunications systems facilities are vulnerable to physical and radiological damage. Planning factors with respect to the resumption of services in a disaster or postattack period must consider the probable loss of facilities which formerly provided direct and/or alternate intercity services among 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 services between and among surviving metropolitan areas will be a high priority with the carriers.

§ 202.3 Plans preparation and execution.

Federal authority, substantive provisions, and functional responsibilities of the executive office are summarized in the following:

(a) **Wartime Emergency Functions.** (1) The Assistant to the President for National Security Affairs (the National Security Advisor) shall provide general policy direction for the exercise of the war power functions of the President under section 706 of the Communications Act (47 U.S.C. 606), as amended, 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 706(a), (c)-(e) of the Communications Act (47 U.S.C. 606), as amended, 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 Advisor shall:

(i) 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 the law, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law.

(ii) Provide policy oversight and direction of the activities of the NCS.

(2) The Director of the Office of Science and Technology Policy shall:

(i) 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.

(ii) Establish a Joint Telecommunications Resources Board (JTRB) to assist the Director in providing 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.

(c) **Planning and Oversight Responsibilities.**

(1) The National Security Advisor shall advise and assist the President in:

(i) Coordination and development of policy, plans, programs and standards for the mobilization and use of the Nation's commercial, government, and privately owned telecommunications resources to meet national security and emergency preparedness telecommunications requirements.

(ii) Providing policy oversight and direction of the activities of the NCS; and

(iii) Providing policy oversight and guidance for the execution of the responsibilities assigned to the Federal departments and agencies by Executive Order 12472.

(2) The Director of the Office of Science and Technology Policy (or a designee) shall:

(i) 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 and emergency preparedness telecommunications functions.

(ii) 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 or crisis or emergency.

(3) The National Security Advisor, 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.

(4) The Director of the Office of Management and Budget, in consultation with the National Security Advisor 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.

(d) Performance of essential government and public services during a national emergency, as defined in section 706 of the Communications Act (47 U.S.C. 606), as amended, will require a means for communications between government and the private sector, 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, government and private sector, are appropriately balanced. For this reason, with regard to wartime emergency functions, 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.

(e) In order to support the NS/EP 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 following functions shall be performed:

(1) The Secretary of Commerce, for all conditions of crisis or emergency, shall:

(i) Develop plans and procedures concerning radio spectrum assignments, priorities and allocations for use by Federal departments, agencies and entities; and

(ii) Develop, maintain and publish policy, plans and procedures for the control and assignment of radio frequencies, including the authority to amend, modify or revoke such assignments, in those parts of the electromagnetic spectrum allocated to the Federal Government.

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

(i) 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.

(ii) 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 NS/EP telecommunications requirements.

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

(iv) 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.

(v) Act as sponsor for State and local governments' requests for telecommunications service priority (TSP) in accordance with the Federal Communications Commission regulations and with procedures in approved NCS issuances.

(3) The Secretary of State, in accordance with assigned responsibilities within the Diplomatic Telecommunications Service, 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 and emergency preparedness responsibilities.

(4) The Secretary of Defense shall:

(i) Plan for and provide, operate and maintain telecommunications services and facilities adequate to support the National Command Authorities and to execute responsibilities assigned by Executive Order 12333, December 4, 1981 (46 FR 59941; 3 CFR, 1981 Comp., p. 200).

(ii) 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.

(iii) Provide protection for interstate or foreign communication as directed by the President when the public interest requires under section 706(b) of the Communications Act (47 U.S.C. 606(b)).

(iv) In consultation with the Secretary of Transportation, develop policy, plans and procedures adequate to enable a transfer of control over radio stations in the Aviation Service and aboard vessels in the Maritime Service to the Department of Defense during a national emergency pursuant to § 202.1(b)(3) of these regulations.

(5) The Attorney General shall, as necessary, review for legal sufficiency, including consistency with the antitrust laws, all policies, plans or procedures developed pursuant to these regulations.

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

(7) Except as otherwise assigned pursuant to these regulations, the Administrator of General Services shall ensure that Federally owned or managed domestic communications facilities and services meet the NS/EP requirements of Federal civilian departments, agencies and entities. The Administrator shall perform these responsibilities consistent with policy

guidance of the Director of the Office of Management and Budget.

(8) The Secretary of the Interior shall develop and execute 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.

(9) The Federal Communications Commission, consistent with its statutory authority, shall:

(i) Review the policies, plans and procedures of all entities licensed or regulated by the Commission that are developed to provide national security and emergency preparedness telecommunications services to ensure that such policies, plans and procedures are consistent with the public interest, 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, National Security Advisor and the Director of the Office of Management and Budget in the exercise of national security and emergency preparedness telecommunications functions and responsibilities and in the coordination of the planning for and provision of national security and emergency preparedness telecommunications for the Federal government under all circumstances, including crisis or emergency, attack recovery and reconstitution.

(11) The Executive Agent for the NCS shall:

(i) 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 needs of the Federal government.

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

(12) The Manager, NCS shall:

(i) 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 and emergency preparedness telecommunications requirements.

(E) Alternative mechanisms for funding, through the budget review process, NS/EP 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 Executive Office of the President.

(ii) Implement and administer any approved plans or programs as assigned, including any system of priorities and preferences for the provision of telecommunications 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.

(iii) Implement, with the assistance of appropriate Federal agencies, a decentralized National Telecommunications Management Structure (NTMS) capable of functioning

independently in support of appropriate authority within the terms and guidelines delineated in the White House approved Implementation Concept.

(iv) 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 and emergency preparedness telecommunications objectives.

(v) Develop an NCS Issuance System of official documents to implement, establish, guide, describe or explain organizational responsibilities, authorities, policies and procedures.

(13) The NCS Committee of Principals shall:

(i) 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 and emergency preparedness telecommunications programs of the NCS and the entities represented on the Committee.

(ii) 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 and emergency preparedness telecommunications objectives.

(iii) 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.

(14) All Federal departments and agencies shall:

(i) Prepare policies, plans and procedures concerning telecommunications facilities, services, or equipment under their management or operational control to maximize their capability to respond to the national security and emergency preparedness needs of the Federal Government. Such plans will be prepared, and the operations will be executed, 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.

(ii) 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 regulation, furnishing them such information, support and assistance as may be required.

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

Sec.

212.0 Authority.

212.1 Purpose.

212.2 Scope.

212.3 Responsibilities.

212.4 Other requirements.

Authority: E.O. 12046, 43 FR 13349, Mar. 29, 1978 (2 CFR, 1978 Comp., p. 158); E.O. 12472, April 3, 1984, (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

§ 212.0 Authority.

(a) Authority to establish arrangements to ensure that the NS/EP telecommunications needs of all Federal government entities are met in a manner consistent to the maximum extent practicable, with other telecommunications policies is contained in Executive Order 12472 and Executive Order 12046.

(b) These procedures are applicable to the communications common carriers and non-Federal Government users under the President's authority contained in subsection 706(a)-(d) of the Communications Act of 1934 (47 U.S.C. 606(a)-(d)), as amended. The authority under subsection 706(a) has been delegated by Executive Order 12472 to the Director of the Office of Science and Technology Policy, contingent upon issuance by the President of implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601). This authority may be exercised only during wartime emergencies.

§ 212.1 Purpose.

The purpose of this part is to provide specific guidance to Government and private entities who may have requirements for international telecommunication service during wartime emergencies.

§ 212.2 Scope.

The procedures in this part provide guidance for the submission of emergency requirements for telecommunication channels from the United States to overseas or foreign points. Guidance on this subject was previously contained in Annex 2 of DMO 3600.1 and Mobilization Plan LX-3.

Mobilization Plan IX-3 has been canceled.

§ 212.3 Responsibilities.

(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.

(a) Government, other than Executive departments and agencies of the United States, having need for emergency international telecommunication service, shall present their requirements through the appropriate sponsor to NCS.

(b) The private sector, including carriers, having need for emergency international telecommunication service, shall present their requirements to the Federal Communications Commission (FCC).

PART 214—PROCEDURES FOR THE USE AND COORDINATION OF THE RADIO SPECTRUM DURING A WARTIME 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. 12472, April 3, 1964, (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

§ 214.0 Authority.

The provisions of this part 214 are issued pursuant to Reorganization Plan No. 1 of 1977, 42 FR 56101, 91 Stat. 1633, as amended (5 U.S.C. appendix) and Executive Order 12472. 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 other wartime 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 other wartime 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 12656, 12472, 12046 (3 CFR, 1966-1970 Comp., p. 820), and other emergency plans regarding the allocation and use of national resources will be in effect. During an attack, and 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 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 (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) Redelegate 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 carrying or scheduled to carry U.S. Government-controlled radio broadcasts.

§ 214.5 Responsibilities.

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

(b) The FCC, in coordination with NTIA, shall issue appropriate rules, regulations, orders, and instructions and take such other actions not inconsistent with the actions of the Director, OSTP, and the NTIA Emergency Readiness Plan for Use of the Radio Spectrum as may be necessary to ensure the effective use of those portions of the radio spectrum shared by Government and non-government users.

(c) The FCC shall assist the Director in the preparation of emergency plans pursuant to section 3(h)(3) of Executive Order 12472.

(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, comprised of predesignated personnel from the frequency management staffs of the government user agencies, NTIA 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 grante

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 to be caused to stations authorized to operate within the United States and its possessions.

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

(1) Consult the NTIA Emergency Readiness Plan for use of the Radio Spectrum and the Government Master File;

(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. 12472, April 3, 1984 (49 FR 13471 *et seq.*).

§ 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 1977, 42 FR 56101, 91 Stat. 1633, as amended (5 U.S.C. appendix), Executive Order 12472, (49 FR 13471; 3 CFR, 1984 Comp., p. 193), "Assignment of National Security and Emergency Preparedness Telecommunications, April 3, 1984 and Executive Order 12046, 43 FR 13349, "Relating to the Transfer of Telecommunications Functions," May 27, 1978, as amended by Executive Order 12472.

§ 215.1 Background.

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

(b) The Defense Nuclear Agency (DNA) is the overall technical

coordinator for the Army, Navy, Air Force, and DOE laboratories on matters concerning nuclear weapons, nuclear weapons effects, and nuclear weapons testing. It acts as the focal point between the service laboratories and other agencies. The National Communications System (NCS), with the Defense Communications Agency (DCA), maintains a data base for telecommunications. DCA also provides the primary capability for the NCS to conduct 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 Advisor informed regarding such tests and studies being conducted and planned.

PART 216—NATIONAL COMMUNICATIONS SYSTEM ISSUANCE SYSTEM

Sec.

216.1 NCS Directives.

216.2 Publication of Directives.

Appendix to Part 216—NCS Directives.

Authority: E.O. 12472, April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

§ 216.1 NCS Directives.

In accordance with § 202.3(c)(12)(v), the Manager, NCS, has developed a system of official documents of a referential nature. The documents include NCS Directives, which establish and implement organizational responsibilities, authorities, policies and procedures of a continuing nature. The Directives are issued by the Executive Office of the President after approval and/or consideration by the NCS Committee of Principals, the Executive Agent for the NCS and the Assistant to the President for National Security Affairs.

§ 216.2 Publication of Directives.

(a) We believe, for public awareness and internal administrative purposes, that publication of the current directives is worthwhile. The appendix to this part includes all current NCS Directives.

(b) The Directives are arranged numerically. The first of the hyphenated letters indicates the subject category: "1" for "Organization, Membership and Administration;" "2" for "Plans, Programs and Fiscal Management;" "3" for "Telecommunications Operations;" and "4" for "Technology and Standards." The second number indicates the sequence of issuance.

(c) In some instances, the appendixes to the directives consist of documents readily accessible elsewhere in the public domain. In the interests of brevity, these documents are referenced rather than reprinted in full.

Appendix to Part 216—NCS Directives

NCS Directive 1-1—Organization, Membership and Administration—National Communications System (NCS) Issuance System

NCS Directive 1-2—Organization, Membership and Administration—National Communications System (NCS) Membership

NCS Directive 2-1—Plans, Programs, and Fiscal Management—National Security Emergency Preparedness (NSEP) Telecommunications Planning Process

NCS Directive 2-2—Plans, Programs, and Fiscal Management—National Level NSEP Telecommunications Program (NLP) Funding

NCS Directive 3-1—Telecommunications Operations—Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)

NCS Directive 3-3—Telecommunications Operations—Shared Resources (SHARES) High Frequency (HF) Radio Program

Note: NCS Directives and their appendices are available from National Communications System Joint Secretariat (NCS-NJ), Defense Communications Agency, Washington, DC 20305-2000

[NCS Directive 1-1]

Organization, Membership and Administration—National Communications System (NCS) Issuance System
November 30, 1987.

1. *Purpose.* This directive establishes the National Communications System (NCS) Issuance System, describes the documents comprising the NCS Issuance System, and assigns responsibilities and delegates authority for implementing and managing that System.

2. *Applicability.* This directive is binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities.

3. **Authority.** Pursuant to the Constitution of the United States and other laws cited in Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984; 49 FR 13471 (1984) (see appendix A to this directive), the President has established the NCS, which is subject to rules issued pursuant to the NCS Issuance System. This directive is issued under the authority of Executive Order No. 12472.

4. **Reference.** Executive Order No. 12472.

5. **Cancellation.** NCS Memorandum 1-63, "National Communications System Publications," December 10, 1963, is hereby cancelled.

6. **Definitions.**

a. **Binding.** Imposing one or more obligations, responsibilities, or duties upon affected parties, subject to any overriding Federal statutes, executive orders, or other Federal law.

b. **Issue.** To put into effect, publish, and distribute an NCS issuance after final approval by proper authority.

c. **NCS Issuances.** Documents (i.e., NCS directives, circulars, manuals, handbooks, and notices; and Office of the Manager, NCS (OMNCS) office orders), generally of referential value and broad distribution, that implement, establish, guide, describe, or explain organizational responsibilities, authorities, policies, and procedures. Appendix B¹ provides abbreviated descriptions of types of issuances.

d. **NCS Directive.** An issuance used to establish and implement organizational responsibilities, authorities, policies, and procedures of a continuing nature. Directives are issued by the Director, Office of Science and Technology Policy and/or Director, Office of Management and Budget, after consideration of the proposed text by the NCS Committee of Principals, Executive Agent, NCS, and Assistant to the President for National Security Affairs. Directives are binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities. Directives remain in effect until superseded or cancelled.

e. **NCS Circular.** An issuance used for dissemination of subject matter either pending incorporation into an NCS directive or requiring one-time action. Circulars are issued by the Director, Office of Science and Technology Policy and/or Director, Office of Management and Budget, after consideration of the proposed text by the NCS Committee of Principals, Executive Agent, NCS, and Assistant to the President for National Security Affairs. Circulars are binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities. Circulars will expire after (1) incorporation into a directive, (2) one year from the date of issuance, or (3) a specified time period, whichever occurs first.

f. **NCS Manual.** An issuance used to provide detailed description, explanation, or

procedural or technical guidance concerning matters addressed in NCS directives or circulars. Manuals are issued by the Manager, NCS, subject to the provisions of paragraphs 9 d and e of this directive. Manuals are binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities. Manuals remain in effect until superseded or cancelled.

g. **NCS Handbook.** An issuance used to provide detailed description, explanation, or procedural or technical guidance concerning matters addressed in NCS directives, circulars, or manuals. Handbooks are issued by the Manager, NCS, normally without consideration by the NCS Committee of Principals or Executive Agent. Handbooks are not binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals or member organizations; or other affected Executive entities. Handbooks remain in effect until superseded or cancelled.

h. **NCS Notice.** An issuance used for immediate dissemination of subject matter, usually informational, and either pending incorporation into an NCS handbook or of transitional interest. Notices are issued by the Manager, NCS, or authorized designees, normally without consideration by the NCS Committee of Principals or Executive Agent. Notices are not binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals or member organizations; or other affected executive entities. Notices will expire after (1) incorporation into a handbook, (2) one year from the date of dissemination, or (3) a specified time period, whichever occurs first.

i. **OMNCS Office Order.** An issuance used to implement and provide procedural guidance supplementary to NCS and other directives, manuals, or authority and outline managerial requirements. Office orders are limited to and binding upon the internal operation, administration, and personnel of the OMNCS. They are issued by the Manager, NCS, who may delegate further this authority, and they remain in effect until superseded or cancelled.

7. **Policy.** The NCS Issuance System governs the issuance of rules and guidance concerning the internal organization, policies, procedures, practices, management, and/or personnel of NCS. Such rules and guidance will be issued in the form of NCS issuances or changes thereto. Proposed changes to an NCS issuance will be processed in the same manner as the issuance to which they pertain.

8. **Responsibilities.**

a. **NCS member organizations:**

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

(2) May review and provide comments regarding proposed NCS directives, circulars, and manuals, as desired or authorized by paragraph 9e below.

(3) May consider and comment upon NCS handbooks and notices.

b. **The NCS Committee of Principals and Executive Agent:**

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

(2) Will review and provide comments as needed to the Executive Office of the President regarding proposed NCS directives and circulars.

(3) Will consider and approve, and may comment upon, NCS manuals, as specified in paragraph 9 below.

(4) May consider and comment upon NCS handbooks and notices.

c. **The Manager, NCS:**

(1) Will maintain and administer the NCS Issuance System.

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

(3) Will consider, issue, and comment upon, as needed, NCS manuals (as specified in paragraph 9 below), handbooks, notices, and OMNCS office orders.

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

9. **Delegations of Authority.**

a. The NCS Committee of Principals and Executive Agent are hereby delegated the authority to approve NCS manuals, subject to the conditions specified below in paragraphs 9 d and e.

b. The Manager, NCS, is hereby delegated the authority to issue NCS manuals, handbooks, and notices.

c. The Manager, NCS, is hereby delegated the authority to approve and issue OMNCS office orders. The Manager may further delegate this authority.

d. NCS manuals will be issued 30 calendar days following notification to the NCS Committee of Principals of approval by the Committee of Principals and Executive Agent, but only (1) if authorized by an NCS directive or circular, and (2) subject to the condition specified in paragraph 9e below.

e. Upon either approval or disapproval of an NCS manual by the Committee of Principals and/or Executive Agent, the NCS Executive Agent, Manager, Committee of Principals, and member organizations may, within 30 calendar days after notification to the Committee of Principals of such action, submit a written request for review of the manual to the Director, Office of Science and Technology Policy; Director, Office of Management and Budget; or Assistant to the President for National Security Affairs. Any such request will include reasons. Copies of the request shall be provided concurrently to the NCS Committee of Principals, Executive Agent, and Manager, as necessary. For a period of 30 calendar days thereafter, any NCS entity may submit comments to the Director, Office of Science and Technology Policy; Director, Office of Management and Budget; or Assistant to the President for National Security Affairs. Any manual under such review may not be issued until resolution of the matter in question by (1) direction from the Director, Office of Science and Technology Policy, and/or Director, Office of Management and Budget, after consideration by the Assistant to the President for National Security Affairs; or (2) withdrawal of each request for review.

10. **Authorizing Provisions.** NCS manuals implementing this directive are authorized.

¹ Editorial Note: See § 218.2(c) and the note following the table of contents for the appendix to part 218.

11. *Effective Date.* This directive is effective immediately.

12. *Expiration.* This directive will remain in effect until superseded or cancelled.

2 Appendices ²

A. Executive Order No. 12472

Director, Office of Science and Technology Policy.

Dated: November 30, 1987.

Director, Office of Management and Budget.

Dated: November 17, 1987.

Assistant to the President for National Security Affairs.

Dated: September 18, 1987.

Note: Appendix A to NCS Directive 1-1, Executive Order No. 12472 of April 3, 1984, is not published in full in the appendix to part 216. The text of Executive Order 12472 appears in 49 FR 13471, April 5, 1984, and in 3 CFR, 1984 Comp., p. 193.

[NCS Directive 1-2]

Organization, Membership, and Administration—National Communications System (NCS) Membership

November 30, 1987.

1. *Purpose.* This directive identifies the membership of the National Communications System (NCS) as designated by the President and assigns associated responsibilities.

2. *Applicability.* This directive is binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities.

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 FR 13471 (1984), and NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

4. *References.*

a. Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984). (The text of this Executive Order is included as appendix A to NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.) ¹

b. NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

c. White House Memoranda, subject "The National Communications System," dated July 13, 1984 (appendices A and B).²

d. White House Memoranda, subject "Application of the Department of Health and Human Services (HHS) for Membership in the National Communications System (NCS)," dated May 7, 1987 (appendix C).³

² Editorial Note: See § 216.2(c) and the note following the table of contents for the appendix to part 216.

Editorial Notes:

¹ See the note at the end of Directive 1-1.

² See § 216.2(c) and the note following the table of contents for the appendix to part 216.

³ See § 216.2(c) and the note following the table of contents for the appendix to part 216.

e. NCS Manual 1-2-1, "Bylaws of the National Communications System (NCS) Committee of Principals," November 30, 1987.

5. *Cancellation.* NCS Memorandum 2-83, "Approval of Initial NCS Tasks 1 and 2," December 13, 1983; and NCS Memorandum 2-64, "Additional Networks Approval for Inclusion in the National Communications System," December 11, 1984, are hereby cancelled.

6. *Definitions.*

a. *Full Member.* A representative on the NCS Committee of Principals of an organization entitled to unqualified participation, subject to Committee bylaws (reference 4e) and prevailing legal authority. Organizations represented by full members will be bound by rules and other legal authority governing the NCS.

b. *Liaison member.* A representative on the NCS Committee of Principals of an organization invited by the President to participate, without the right to vote on matters before the Committee.

7. *Policy.* Active participation in NCS activities by organizations represented on the Committee of Principals is critical to effective national security emergency preparedness telecommunications. Accordingly, each organization represented by a full member should detail at least one full-time employee to serve either on the staff of the Manager, NCS, or as a resident representative to the NCS' National Coordinating Center. Exceptions to this policy may be authorized on a case-by-case basis by the Assistant to the President for National Security Affairs.

8. *Designated Full Members.* The President has designated the following Federal entities to participate in the NCS and be represented by full members on the Committee of Principals: Department of State; Department of the Treasury; Department of Defense; Department of Justice; Department of the Interior; Department of Agriculture; Department of Commerce; Department of Health and Human Services; Department of Transportation; Department of Energy; Central Intelligence Agency; Office of the Joint Chiefs of Staff; General Services Administration; United States Information Agency; National Aeronautics and Space Administration; Veterans Administration; Federal Emergency Management Agency; National Security Agency; and National Telecommunications and Information Administration.

9. *Invited Participants.* The President has invited the Federal Communications Commission, Nuclear Regulatory Commission, U.S. Postal Service, and Federal Reserve System to participate in the NCS and be represented on the Committee of Principals by either liaison or full members. Invited participants choosing to be represented by full members will be bound by NCS issuances promulgated pursuant to reference 4b.

10. *Responsibilities.*

a. Each organization represented by a full member on the NCS Committee of Principals:

(1) Will accredit the full member as the organization's authorized representative in matters before the Committee, including matters involving policy, budget, and resources.

(2) Will participate in all activities of the Committee.

(3) Should execute a Memorandum of Agreement with the Executive Agent or Manager, NCS, to provide personnel and staff support to the Office of the Manager, NCS, in accordance with section 3 (i) (3) of Executive Order No. 12472 and policy established in this directive.

b. Each organization represented by a liaison member on the Committee of Principals:

(1) May participate as desired in Committee activities.

(2) Should execute a Memorandum of Agreement with the Executive Agent or Manager, NCS, describing the nature and extent of participation in the NCS.

c. The Executive Agent or Manager, NCS, will prepare and execute Memoranda of Agreement as described in paragraphs 10 a and b above.

11. *Authorizing Provision.* NCS manuals implementing this directive are authorized.

12. *Effective Date.* This directive is effective immediately.

13. *Expiration.* This directive is in effect until superseded or cancelled.

Director, Office of Science and Technology Policy.

Dated: November 30, 1987.

Director, Office of Management and Budget.

Dated: November 17, 1987.

Assistant to the President for National Security Affairs.

Dated: September 18, 1987.

[NCS Directive 2-1]

Plans, Programs, and Fiscal Management—National Security Emergency Preparedness (NSEP) Telecommunications Planning Process

September 30, 1988.

1. *Purpose.* This directive establishes the interagency process by which unified planning is conducted within the National Communications System (NCS) to ensure the coordinated development of a responsive and survivable national telecommunications infrastructure to meet the NSEP telecommunications needs of the Federal Government.

2. *Applicability.* This directive is binding upon the Executive Agent, NCS; Manager, NCS; NCS Committee of Principals and Member Organizations; and other affected Executive entities.

3. *Authority.* This directive is issued under the provisions of Executive Order (E.O.) No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications," April 3, 1984, 49 FR 13471 (1984) and NCS Directive (NCS) No. 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

4. *References.*

a. E.O. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984).

b. NCS Directive 2-2, "National Level NSEP Telecommunications Program (NLP) Funding," November 30, 1987.

c. "National Security Emergency Preparedness (NSEP) Telecommunications

Planning Process," March 27, 1988, NCS 328/8.¹

d. White House Memorandum, "National Communications System (NSEP) Telecommunications Planning Process," October 11, 1988, (appendix).²

5. *Cancellation.* NCS Memorandum No. 2-69, "Interim Procedures for Application of Planning—Programming—Budgeting System (PPBS) Features in the NCS Planning Process," October 31, 1969, is hereby cancelled.

6. *Definitions.*

a. The National Level NSEP Telecommunications Program (NLP). Those NSEP telecommunications programs benefiting multiple departments and agencies that are to be undertaken within the NCS structure, and the accompanying provisions for their shared funding and implementation.

b. *Capability Objectives.* That key Planning Process element which defines the set of capabilities needed to meet the NSEP telecommunication requirements of the Federal Government.

c. *Deficiencies and Priorities.* That key Planning Process element which identifies shortcomings or shortfalls in existing capabilities that inhibit or preclude the satisfaction of Federal NSEP telecommunications requirements.

d. *Candidate Initiatives.* That key Planning Process element which describes actions selected to mitigate identified deficiencies and achieve the overall enhancement of NSEP telecommunications capabilities.

e. *Evolutionary NSEP Telecommunications Architecture.* That Planning Process element which describes the overall structure of telecommunications capabilities and resources to support Federal government NSEP requirements and the framework for the design, evaluation, and integration of NSEP telecommunications initiatives.

7. *Policy.* The mission of the NCS is to assist the President, the National Security Council (NSC), the Director of the Office of Science and Technology Policy (OSTP), and the Director of the Office of Management and Budget (OMB) in the exercise of the telecommunications functions and responsibilities assigned to them by E.O. 12472, and to coordinate the planning for and provision of NSEP telecommunications for the Federal government under all circumstances, including crisis or emergency, attack, recovery, and reconstitution.

a. To support the performance of this mission, a unified planning process for NSEP telecommunications will be implemented to:

(1) Establish, on an evolutionary basis, a NSEP telecommunications planning mechanism that facilitates the integration of Federal government, commercial/private sector, and State/local government activities and capabilities;

(2) Define the capabilities required to support NSEP telecommunications needs;

(3) Identify a set of feasible near- and long-term national level NSEP telecommunications initiatives for the achievement of those capabilities; and

¹ Editorial Note: See § 216.2(c) and the note following the table of contents for the appendix to part 216.

(4) Develop, and provide for the effective implementation of, approved national level NSEP telecommunications programs.

b. These planning functions will be carried out within the framework of an overall process involving the design and maintenance of an evolutionary NSEP telecommunications architecture, and the annual development, documentation, review, and approval of capability objectives, deficiencies and priorities, candidate initiatives, and a National Level Program.

8. *Responsibilities.*

a. Executive Office of the President (EOP).

(1) Within the EOP, the NSC, in conjunction with OSTP and OMB, will:

(a) Provide overall policy and program direction for NSEP telecommunications planning;

(b) Provide, after appropriate consultation with the Director of Central Intelligence and the Attorney General, a definition of the threat for planning purposes;

(c) Review and validate Capability Objectives;

(d) Review and provide program planning guidance to the NCS regarding Deficiencies and Priorities and Candidate Initiatives; and

(e) Provide direction for the implementation of the National Level Program.

(2) In addition, the OSTP will also:

(a) Provide recommendations regarding, and the results of tests, exercises, and evaluations;

(b) Provide recommendations relating to the enhancement of plans and procedures for the management of Federal telecommunications resources in crises or emergencies.

(3) As provided for in E.O. 12472, OMB, * * * will, in conjunction with the National Security Council, provide general guidelines and procedures for reviewing the financing of the NCS within the budgetary process and for preparation of budget estimates by participating organizations. These guidelines and procedures may provide for mechanisms for funding, through the budget review process, NSEP telecommunications initiatives which benefit multiple departments and agencies.

(4) The NSC, OSTP, OMB and the Executive Agent, NCS, will:

(a) Review and approve or modify the proposed National Level Program developed by the NCS.

b. The Executive Agent, NCS, will:

(1) Provide direction for the conduct of NSEP telecommunications planning activities and serve as the principal interface between the NCS and the EOP;

(2) Review the Capability Objectives, Deficiencies and Priorities, Candidate Initiatives, and the proposed National Level Program and forward them, with NCS COP and Executive Agent recommendations, for the consideration of the EOP;

(3) Transmit NSEP Telecommunications planning guidance and direction received from the EOP to the Manager, NCS; and

(4) Oversee the overall planning activities of the NCS.

c. Individual NCS member organizations * will:

(1) Identify their essential emergency functions (EEFs) and IJSEP

telecommunications needs and requirements; (2) Describe initiatives being implemented within their organizations to improve NSEP telecommunications capabilities;

(3) Provide any information ** regarding their telecommunications operating systems, networks, facilities, plans, and procedures that is required for effective NSEP telecommunications planning; and

(4) Recommend and provide budget estimates for candidate national level NSEP telecommunications initiatives.

d. The NCS Committee of Principals (COP) will:

(1) Review, consider, and provide recommendations regarding NSEP Telecommunications Requirements, Capability Objectives, Deficiencies and Priorities, Candidate Initiatives, and the proposed National Level Program to the Executive Agent and the EOP;

(2) Assist in the coordination of NSEP telecommunications planning activities with other related planning activities and processes; and

(3) Serve as forum for the evaluation of the National Level Program and assessment of the effectiveness of the NSEP Telecommunications Planning Process.

e. The Manager, NCS, will:

(1) Ensure the annual development and documentation for NSEP Telecommunications Planning Process elements based upon NSEP telecommunications requirements and threat and policy guidance provided by the EOP;

(2) Develop, for consideration by the NCS COP, the Capability Objectives, Deficiencies and Priorities, and Candidate Initiatives and forward them for the consideration of the Executive Agent and the EOP;

(3) Provide annually a proposed National Level Program for the consideration of the NCS COP and the Executive Agent;

(4) Design and maintain the evolutionary NSEP Telecommunications Architecture;

(5) Coordinate planning activities within the NCS structure and provide staff support and technical assistance for the overall planning effort; and

(6) Obtain the NSEP telecommunications recommendations of the U.S.

* Certain NCS member organizations are also assigned special telecommunications planning responsibilities within the Federal Government, e.g., spectrum planning, telecommunications security and protection, and diplomatic and intelligence communications planning. These organizations will work with the Manager, NCS, to assure that their special areas of responsibility are reflected in the National Level Program to the maximum extent practicable. For example, FEMA will ensure that State/local NSEP telecommunications concerns, activities, and capabilities are considered, to the maximum extent practicable, within the Planning Process.

** Such information from NCS members organizations will be provided to the extent permitted by law and regulation, and with due regard for the need to protect classified or otherwise sensitive national security or intelligence information.

telecommunications industry through the National Security Telecommunications Advisory Committee (NSTAC).

9. Procedures.

a. Key NSEP Telecommunications Planning Process elements will be developed and considered on an annual basis as follows:

(1) Capability Objectives will be presented for NCS COP consideration by the Manager, NCS; forwarded with NCS COP recommendations to the Executive Agent, NCS; and transmitted with NCS COP and Executive Agent recommendations to the NSC, OSTP, and OMB for validation.

(2) Deficiencies and Priorities will be presented to the NCS COP by the Manager, NCS; forwarded with NCS COP recommendations to the Executive Agent, NCS; and transmitted with NCS COP and Executive Agent recommendations to the NSC, OSTP, and OMB for information and reference.

(3) Candidate Initiatives will be presented to the NCS COP by the Manager, NCS; forwarded with NCS COP recommendations to the Executive Agent, NCS, OSTP, and OMB for information and reference.

(4) A proposed National Level Program will be presented for NCS COP consideration in March by the Manager, NCS; forwarded with NCS COP recommendations to the Executive Agent, NCS; and transmitted with NCS and Executive Agent recommendations to the NSC, OSTP, and OMB for review in May.

b. Preparation of the final National Level Program completes the annual planning cycle. However, it does not complete the budgetary cycle, which continues until budget requests are submitted to OMB for inclusion in the President's Budget. It is anticipated that, following consideration and approval of the National Level Program by the EOP, approved recommendations will be provided to OMB and the NCS member organizations for use in preparation of the President's Budget.

c. As necessary, the EOP will also provide specific program funding and budgetary guidance to the NCS member organizations for the development of NSEP telecommunications budget requests.

10. *Authorizing Provision.* NCS manuals implementing this directive are authorized.

11. *Effective Date.* This directive is effective immediately.

12. *Expiration.* This directive will remain in effect until superseded or cancelled.

Appendix:

White House Memorandum, October 11, 1988 *

Director, Office of Science and Technology Policy.

Dated: January 27, 1989.

Director, Office of Management and Budget.

Dated: January 19, 1989.

Assistant to the President for National Security Affairs.

Dated: January 19, 1989.

* Editorial note: See § 216.2(c), and the note following the table of contents for the appendix to part 216.

[NCS Directive 2-2]

Plans, Programs, and Fiscal Management—National Level NSEP Telecommunications Program (NLP) Funding

November 30, 1987.

1. *Purpose.* This directive establishes policies and procedures and assigns responsibilities for the shared funding of approved national level national security emergency preparedness (NSEP) telecommunications programs and for the preparation and execution of National Level NSEP Telecommunications Program (NLP) Funding Memoranda of Agreement and funding agreements between NCS member organizations and the Manager, NCS.

2. *Applicability.* This directive is binding upon the Executive Agent, NCS; NCS Committee of Principals; Manager, NCS; those NCS member organizations required to share costs of approved NLP programs; and other affected Executive entities.

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 FR 13471 (1984), Section 2(e), and NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

4. *Policy.* The President has directed that implementation and recurring costs for national level NSEP telecommunications programs shall be shared on a pro rata basis. Each NCS organization's share of such costs shall be determined by its share of NSEP telecommunications requirements. The Department of Defense shall fund all development costs associated with approved national level NSEP telecommunications programs. Agreements shall be executed to govern NLP funding. Compliance with this policy is subject to the authorization and appropriation of funds by the Congress.

5. *References.*

a. Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984).

b. National Security Decision Directive (NSDD) 201, "National Security Emergency Preparedness Telecommunications (NSEP) Funding," December 17, 1985 (appendix A).¹

c. NCS Directive 2-1, "National Security Emergency Preparedness (NSEP) Telecommunications Planning Process," (presently in process).

6. *Definitions.*

a. *Shared Funding.* The pro rata distribution among NCS member organizations of the implementation and recurring costs of approved national level NSEP telecommunications programs on the basis of each organization's NSEP telecommunications requirements.

b. *NSEP Telecommunications Requirements.* Initially, those telecommunications requirements identified by NCS member organizations as part of the NSEP Telecommunications Requirements

¹ Editorial note: See § 216.2(c) and the note following the table of contents for the appendix to part 216.

Analysis directed by the Executive Office of the President. Alternative methods for determining requirements may be used, subject to approval as prescribed in Executive Order No. 12472, section 2(c) (4).

c. The National Level NSEP Telecommunications Program (NLP). That document developed as part of the NSEP Telecommunications Planning Process that identifies national level NSEP telecommunications programs and accompanying provisions for their shared funding and implementation.

d. National Level NSEP Telecommunications Programs. Those programs that benefit multiple Federal departments, agencies, or entities and:

(1) Directly enhance national telecommunications infrastructure and service capabilities within the framework outlined in Executive Order No. 12472, and

(2) Are undertaken within the administrative structure of the NCS, i.e., by the Manager, NCS, NCS Committee of Principals (COP), and Executive Agent, NCS, via the NSEP Telecommunications Planning Process, and

(3) Involved acquisition and operations/maintenance costs of sufficient magnitude to warrant shared funding.

e. *Development Costs.* Those costs (e.g., research, pre-production engineering, proof of concept studies and demonstrations, and specification development) incurred prior to contract award leading to an operational capability.

f. *Implementation Costs.* Those costs (e.g., acquisition/procurement, production engineering, installation, and nonrecurring lease) incurred after contract award leading to an operational capability and prior to operational capability being achieved.

g. *Recurring Costs.* Those costs (e.g., recurring lease, maintenance, operational testing, and termination liability) incurred in support of the continuing operations and maintenance associated with national level programs.

h. *NLP Funding Memorandum of Agreement (MOA).* A memorandum of agreement developed between an NCS member organization and the Manager, NCS, to implement the provisions of this directive.

i. *Funding Agreements.* Funding documents e.g., Interagency Funding Agreements and Vouchers, executed between the Manager, NCS, and NCS member organizations to provide for the payment of NLP funds to the Manager, NCS.

7. *Responsibilities.*

a. The Office of Management and Budget will provide guidance annually to NCS member organizations regarding the incorporation of funding for approved national level NSEP telecommunications programs in the President's Budget.

b. The Department of Defense will provide funding for the development costs associated with approved national level NSEP telecommunications programs.

c. The Manager, NCS, will:

(1) Negotiate and execute NLP Funding Memoranda of Agreement and Interagency Funding Agreements with those NCS member organizations required to share the costs of

approved national level NSEP telecommunications programs, and

(2) Oversee the program and financial management of approved national level NSEP telecommunications programs, reporting quarterly on program status and the expenditure of funds to the NCS Committee of Principals.

d. Each NCS member organization required to share the costs of the NLP will:

(1) Incorporate its respective funding share of approved national level NSEP telecommunications programs in its annual budget submission;

(2) Execute with the Manager, NCS, an NLP Funding Memorandum of Agreement after review by the organization's NCS Principal; and

(3) Execute with the Manager, NCS those funding agreements required for payment of funds for approved national level NSEP telecommunications programs to the Manager, NCS.

8. Procedures.

a. NLP Funding Guidance. The NLP funding guidance required by paragraph 7a(1) of this directive will be provided to the NCS entities annually by August 1.

b. NLP Funding Agreements. The shared funding of approved national level NSEP telecommunications programs will be accomplished through the execution, between NCS member organizations and the Manager, NCS of the following:

(1) An NLP Funding Memorandum of Agreement that, as outlined in the model MOA at Appendix B, provides for incorporation of the NLP funding share in an NCS member organization's budget submission; preparation and execution of an Interagency Funding Agreement; and reporting of the NLP status. Those NCS organizations required to share the costs of the NLP as of the effective date of this directive shall execute such Memoranda by September 30, 1987.

(2) An Interagency Funding Agreement that outlines the scope of work to be undertaken as part of the NLP, the associated period of performance, the estimated maximum costs, and procedures for submission of vouchers for transfers between appropriated funds. This agreement, which does not constitute an obligation of funds, shall be executed by August 31 each year to provide for the payment of NLP funds for the following fiscal year.

(3) Vouchers for Transfers Between Appropriations And/Or Funds (Standard Form 1080) forwarded by the Manager, NCS, to the NCS member organizations prior to the start of the fiscal year in which NLP funds are to be expended. Organizations will effect the payment of funds upon receipt of appropriated funds (or Continuing Resolution(s)), subject to OMB apportionment of those funds.

c. NLP Funding Shortfalls. If an NCS member organization is not authorized and appropriated the amount of funds necessary to pay its share of approved national level NSEP telecommunications programs, the Manager, NCS, should also be notified as soon as possible.

9. Authorizing Provisions. NCS manuals implementing this directive are authorized.

10. Effective Date. This directive is effective immediately.

11. Expiration Date. This directive will remain in effect until superseded or cancelled.

2 Appendices

A. NSDD 201, December 17, 1985²

B. Model NLP MOA

Director, Office of Management and Budget.

Dated: November 17, 1987.

Appendix B—Model National Level NSEP Telecommunications Program (NLP) Funding Memorandum of Agreement (MOA)

1. Purpose: This Memorandum of Agreement (MOA) defines the relationship between and responsibilities of the (name of NCS member organization) and the Office of the Manager, NCS (OMNCS), with respect to the financial management of national level national security emergency preparedness (NSEP) telecommunications programs approved by the Executive Office of the President (EOP) in the National Level NSEP Telecommunications Program (NLP).

2. Scope: This MOA is limited to the implementation and recurring costs of approved national level NSEP telecommunications programs, including termination liability costs, if applicable. Development costs will be funded by the Department of Defense.

3. Background: In April 1984, Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," established a framework for the funding of NSEP telecommunications initiatives by the NCS, providing for:

a. The prescription, by the Office of Management and Budget (OMB) in consultation with the National Security Council (NSC) and the NCS, of general guidelines and procedures for reviewing the financing of the NCS within the budgetary process, and for the preparation of budget estimates by participating agencies.

b. The determination, by the NSC, the Office of Science and Technology Policy (OSTP), and OMB in consultation with the Executive Agent, NCS, and the NCS Committee of Principals (COP), of what constitutes NSEP telecommunications requirements, and

c. The determination, by Federal departments and agencies, of their NSEP telecommunications requirements and the provision, after consultation with the Office of Management and Budget (OMB), of resources to support their respective requirements for NSEP telecommunications.

To implement the provisions of Executive Order No. 12472, the President directed in National Security Decision Directive (NSDD) 201, that "implementation and recurring costs for national level NSEP telecommunications programs (i.e., those which benefit multiple Federal departments, agencies or entities) shall be shared on a pro rata basis determined by each organization's share of

² Editorial note: See § 216.2(c) and the note following the table of contents for the appendix to part 216.

NSEP telecommunications requirements."

The Director, OMB, subsequently instructed the NCS member organizations to work with the Manager, NCS, to develop the necessary agreements for the payment of member funds to the Office of the Manager, NCS (OMNCS).

4.0 Responsibilities

4.1 The Office of the Manager, NCS, shall:

a. Serve as the Office of Primary Responsibility for the financial and program management of approved national level NSEP telecommunications programs.

b. Upon approval of national level NSEP telecommunications programs and receipt of funding guidance from the EOP, prepare an Interagency Funding Agreement necessary to effect the payment of (name of NCS member organization) funds to the Manager, NCS. This agreement shall be executed by August 31 each year.

c. Prepare and provide vouchers for transfers between appropriations and/or funds (Standard Form 1080) for (name of NCS member organization)

d. Provide technical, programmatic, and financial management support for individual national level NSEP telecommunications programs, including the maintenance of financial records and accounting system and the update of program plans.

e. Report quarterly to the NCS COP on the programmatic and financial status of approved national level NSEP telecommunications programs.

f. Advise the (name of NCS member organization) of any significant programmatic or financial adjustments/modifications.

4.2 The (name of NCS member organization) will:

a. Incorporate its respective funding share of approved national level NSEP telecommunications programs in its annual budget submission.

b. Execute with the Manager, NCS, by August 31 each year the Interagency Funding Agreement required for the transfer, payment and/or reimbursement of funds for the NLP.

c. Upon receipt of appropriations (or Continuing Resolution(s)) for each applicable fiscal year and subject to OMB apportionment of those funds, effect the payment of funds to the Manager, NCS, in accordance with Standard Form 1080.

5.0 Implementation: This MOA is effective upon the date of the latest signature. This MOA is subject to periodic review and update as circumstances warrant and will terminate upon the mutual agreement of the parties. Compliance with this MOA is subject to the authorization and appropriation of funds by the Congress.

(Signature)

(Name of Manager, NCS)

(Title of Manager, NCS)

Date:

(Signature)

(Name of Authorized Official)

(Title of Authorized Official)

(Name of NCS Organization)

Date:

[NCS Directive 3-1]

*Telecommunication Operations—
Telecommunications Service Priority (TSP)
System for National Security Emergency
Preparedness (NSEP)*

July 5, 1990.

1. *Purpose.* This directive implements policy, explains legal and regulatory basis, assigns responsibilities, and prescribes procedures for the Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP).

2. *Applicability.*

a. This directive is binding upon the Executive Agency, NCS; Manager, NCS; NCS Committee of Principals and member organizations; and other affected Executive entities.

b. This directive applies to NSEP telecommunication services:

(1) For which initial or revised priority level assignments are requested pursuant to paragraph 12 of this directive.

(2) Which were assigned restoration priorities under the provisions of 47 CFR part 64, appendix A, "Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services," 47 CFR part 211, "Emergency Restoration Priority Procedures for Telecommunications Services," and NCS Memorandum 1-68 and are being resubmitted for priority level assignments pursuant to paragraph 14 of this directive. (Such services will retain assigned restoration priorities until a resubmission for a TSP assignment is completed or until the existing RP rules are terminated.)

3. *Authority.* This directive is issued under the authority of section 706 of the Communications Act of 1934, as amended (47 U.S.C. 606); Executive Order No. 12472.

"Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984); NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987; and 47 CFR part 64, appendix A.

"Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)."

4. *References.*

a. Communications Act of 1934, as amended (47 U.S.C. 151, *et seq.*).

b. Defense Production Act of 1950, as amended (50 U.S.C. appendix, section 2061, *et seq.*).

c. Disaster Relief Act (42 U.S.C. 5121 *et seq.*).

d. Foreign Intelligence Surveillance Act (50 U.S.C. 1801, *et seq.* and 18 U.S.C. 2511, 2518, and 2519).

e. Title 47, Code of Federal Regulations, part 64, Appendix A, "Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services," 47 CFR part 64, appendix A (1980).

f. Title 47, Code of Federal Regulations, part 64, Appendix A, "Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)."

g. Defense Priorities and Allocation System (15 CFR part 350).

h. Executive Order No. 12472, "Assignment of National Security and Emergency

Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984).

i. NCS Memorandum 1-68, "National Communications System (NCS) Circuit Restoration Priority System," July 18, 1968.¹

5. *Cancellation and/or Supersession.* NCS Memorandum 1-68, "National Communications System (NCS) Circuit Restoration Priority System," July 18, 1968; NCS circular 55-1, "Processing Requests for Temporary Adjustments to NCS circuit Restoration Priority Assignments," July 8, 1970; and NCS Circular 55-2, "NCS Data Base," November 21, 1977, with Change 1, May 30, 1978; are hereby superseded by, and cancelled under the authority of this directive on its effective date.

6. *Definitions.* See Appendix.

7. *Scope of the NSEP TSP System.*

a. *Domestic NSEP Services.* The NSEP TSP System and procedures established in 47 CFR part 64 and in this directive authorize priority treatment to the following domestic telecommunication services (including portions of U.S. international telecommunication services provided by U.S. vendors) for which provisioning or restoration priority levels are requested, assigned, and approved in accordance with this directive and any implementing manuals:

(1) Common carrier services which are:

(a) Interstate or foreign telecommunication services.

(b) Intrastate telecommunication services inseparable from interstate or foreign telecommunication services, and intrastate telecommunication services to which priority levels are assigned pursuant to paragraph 13 of this directive.

(Note: Initially, the NSEP TSP System's applicability to public switched services is limited to (a) provisioning of such services (e.g., business, centrex, cellular, foreign exchange, Wide Area Telephone Service (WATS) and other services that the selected vendor is able to provision), and (b) restoration of services that the selected vendor is able to restore.)

(2) Services which are provided by government and/or non-common carriers and are interconnected to common carrier services assigned a priority level pursuant to paragraph 13 of this directive.

b. *Control Services and Orderwires.* The NSEP TSP System and procedures implemented in this directive are not applicable to authorize priority treatment to control services or orderwires owned by a service vendor and needed for provisioning, restoration, or maintenance of other services owned by that vendor. Such control services and orderwires shall have priority of provisioning and restoration over all other telecommunication services (including NSEP services) and shall be exempt from preemption. However, the NSEP TSP System and procedures implemented in this directive are applicable to control services or orderwires leased by a service vendor or user from another service vendor.

c. *Other Services.* The NSEP TSP System may apply, at the discretion of and upon special arrangements by the entities

involved, to authorize priority treatment to the following telecommunication services:

(1) Government or non-common carrier services which are not connected to common carrier provided services assigned a priority level pursuant to paragraph 13 of this directive.

(2) Portions of U.S. international services which are provided by foreign correspondents. (Subject to pertinent law, including references 4a, 4c, and 4f, U.S. telecommunication service vendors are encouraged to ensure that relevant operating arrangements are consistent to the maximum extent practicable with the NSEP TSP System. If such agreements do not exist, U.S. telecommunication service vendors should handle service provisioning and/or restoration in accordance with any system acceptable to their foreign correspondents which allows provisioning and restoration in the manner most comparable to the procedures established in this directive.) In addition, the U.S. government, acting through the Department of State, may enter into the following types of agreements to ensure that priority provisioning and restoration procedures consistent with those governing domestic services within the NSEP TSP System are in place: (a) Bilateral agreements for reciprocal priority treatment for critical foreign government telecommunication services in the U.S., and (b) multilateral agreements within such international telecommunication organizations as the North Atlantic Treaty Organization's Allied Long Lines Agency or Civil Communications Planning Committee, which have or are conducive to having a provisioning and restoration priority system.

d. *Subpriority and Precedence Systems.* Service users may implement subpriority and/or precedence systems that are consistent, and do not conflict with, the NSEP TSP System.

8. *Policy.* The NSEP TSP System is the regulatory, administrative, and operational system authorizing and providing for priority treatment (i.e., provisioning, and restoration) of NSEP telecommunication services (see definition in Appendix). As such, it establishes the framework for NSEP telecommunication service vendors to provision, restore, or otherwise act on a priority basis to ensure effective NSEP telecommunication services. The NSEP TSP System allows the assignment of priority levels to any NSEP service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. All requests for priority level assignments will be processed through the Manager, NCS. Although priority levels normally will be assigned by the Manager, NCS, and retained by service vendors, only for the current time period, they may also be preassigned for the other two time periods at the request of service users who are able to identify and justify, in advance, their wartime or post-attack NSEP telecommunication requirements. Absent such preassigned priority levels for the Attack/War and Post-Attack/Recovery periods, priority level assignments for the Peacetime/Crisis/Mobilization period will remain in effect. At

¹ Editorial Note: See Section 216.2(c).

all times, priority level assignments will be subject to revision by the Federal Communications Commission (FCC); or, on an interim basis, the Director, Office of Science and Technology Policy (OSTP); and the Manager, NCS, based upon changing NSEP needs. No other system of telecommunication service priorities which conflicts with the NSEP TSP System is authorized.

9. *Legal Basis for the NSEP TSP System.* The laws and regulations authorizing the NSEP TSP System are those cited above in paragraphs 3 and 4.

a. *Communications Act.* Sections 1, 4(i), and 201 thru 205 of the Communications Act of 1934 (47 U.S.C., 151, 154(i), and 201 thru 205) grant to the FCC the authority over assignment and approval of priorities for provisioning and restoration of common carrier-provided telecommunication services. Under section 706 of the Communications Act, this authority may be superseded, and expanded to include privately owned telecommunication services, by the war emergency powers of the President of the United States.

b. *Executive Order No. 12472.* In Executive Order No. 12472, the President tasked the NCS to assist the Director, OSTP, in the exercise of the President's war emergency powers. Executive Order No. 12472 also directs the Manager, NCS, to assist the Director, OSTP, in executing those functions by developing plans and procedures for the management, allocation and use (including the establishment of priorities and preferences) of federally owned or leased telecommunication assets.

c. *Federal Rules.* The FCC and Executive Office of the President (EOP) have used their respective authorizations to develop and establish the NSEP TSP System as the one uniform system of priorities for the provisioning and restoration of NSEP telecommunication services, both before and after invocation of the section 706 Presidential war emergency powers. The Federal rules governing the NSEP TSP System have been promulgated by the FCC and OSTP (on behalf of the EOP) in title 47 of the Code of Federal Regulations. In those rules, the FCC has requested the EOP to administer the NSEP TSP System before the invocation of section 706 of the Communications Act. Presidential war emergency powers. In this directive, the EOP assigns to the Manager, NCS, both this administrative authority to administer the NSEP TSP System before, and the President's statutory authority to administer the NSEP TSP System after, the invocation of the section 706 Presidential war emergency powers.

d. *Defense Production Act.* The Defense Production Act of 1950 authorizes the President to require the priority performance of contracts and orders necessary to promote national defense. It also authorizes the President to allocate materials and facilities as necessary to promote national defense. Pursuant to the Defense Production Act, regulations promulgated by the Department of Commerce in the Defense Priorities and Allocations System (DPAS) permit the assignment of "priority ratings" to equipment

associated with NSEP telecommunication services warranting priority treatment, if they support authorized programs under Schedule I of the DPAS.

e. *Contracts.* NSEP telecommunication service users may also employ contractual mechanisms to obtain the priority provisioning or restoration of service, including customer premises equipment and wiring. However, any such contractual arrangements must be consistent with NSEP TSP System rules and regulations, including any priority order of provisioning and restoration assigned in accordance with the NSEP TSP System.

10. Responsibilities.

a. *Federal Communications Commission.* As authorized by the Communications Act the FCC will:

- (1) Provide regulatory oversight of implementation of the NSEP TSP System.
- (2) Enforce NSEP TSP System rules and regulations which are contained in 47, CFR, part 64.
- (3) Act as final authority for approval, revision, or disapproval of priority actions by the Manager, NCS, and adjudicate disputes regarding either priority actions or denials of requests for priority actions by the Manager, NCS, until superseded by the President's war emergency powers under section 706 of the Communications Act.

(4) Function (on a discretionary basis) as a sponsoring Federal organization. (See paragraph 10d below.)

b. *Director, Office of Science and Technology Policy.* The Director, OSTP, EOP, will:

- (1) During exercise of the President's war emergency powers under section 706 of the Communications Act, act as the final approval authority for priority actions or denials of requests for priority actions, adjudicating any disputes.

(2) Provide oversight of Executive branch activities associated with the NSEP TSP System, including assignment of priority levels for telecommunications service provisioning and restoration across all time periods.

(3) Function (on a discretionary basis) as a sponsoring Federal organization. (See paragraph 10d below.)

c. *Manager, NCS.* The Manager, NCS, will:

- (1) Implement the NSEP TSP System under the oversight of the FCC and Director, OSTP, in consultation with the NCS Committee of Principals.

(2) Administer the NSEP TSP System, which includes:

- (a) Receiving, processing, and evaluating requests for priority actions from service users, or sponsoring Federal government organizations on behalf of service users (e.g., Departments of State or Defense on behalf of foreign governments, Federal Emergency Management Agency on behalf of state and local governments, and any Federal organization on behalf of private industry entities). Action on such requests will be completed within 30 days of receipt.

(b) Assigning, revising, revalidating, or revoking priority levels as necessary or upon request of service users concerned, and denying requests for priority actions as necessary, using paragraph 16 of this

directive. Under circumstances short of exercise of Presidential war emergency powers under section 706 of the Communications Act and time permitting, coordinate such changes in priority level assignments in advance with requesting and/or affected parties. Action on such requests will be completed within 30 days of receipt.

(c) Maintaining data on priority level assignments.

(d) Periodically forwarding to the FCC and Director, OSTP, lists of priority actions for review and approval.

(e) Periodically initiating reconciliation.

(f) Testing and evaluating the NSEP TSP System for effectiveness.

(g) Conducting audits as necessary. Any Telecommunications Service Priority (TSP) System user may request the Manager, NCS to conduct an audit. (See the definition of an "audit" in appendix A.)

(h) Issuing, subject to review by the FCC, procedures supplemental to and consistent with this directive regarding operation and use of the NSEP TSP System.

(i) Serving as a centralized point-of-contact for collecting and disseminating to all interested parties (consistent with requirements for treatment of classified and proprietary material) information concerning use and abuse of the NSEP TSP System.

(j) Establishing and assisting a TSP System Oversight Committee to identify and review any problems developing in the system and recommending actions to correct them or prevent recurrence. In addition to representatives of the EOP, representatives from private industry (including telecommunication service vendors), state and local governments, the FCC, and other organizations may be appointed to the committee.

(k) Reporting at least quarterly to the FCC: Director, OSTP; and TSP System Oversight Committee, together with any recommendations for action, the operational status of and trends in the NSEP TSP System, including:

(i) Numbers of requests processed for the various priority actions, and the priority levels assigned.

(ii) Relative percentages of services assigned to each priority level under each NSEP category and subcategory.

(iii) Any apparent serious misassignment or abuse of priority level assignments.

(iv) Any existing or developing problem.

(l) Submitting semi-annually to the FCC: Director, OSTP; and TSP System Oversight Committee a summary report identifying the time and event associated with each invocation of NSEP treatment under paragraph 13c of this directive and section 10c of 47 CFR part 64; whether the NSEP service requirement was adequately handled; and whether any additional charges were incurred. These reports will be due by April 30th of the preceding July through December and by October 31st for the preceding January through June time periods.

(3) Function (on a discretionary basis) as a sponsoring Federal organization. (See paragraph 10d below.)

d. *Sponsoring Federal Organizations.* Sponsoring Federal organizations will:

(1) Review and decide whether to sponsor private industry (including telecommunication service vendors) requests for priority actions. Federal organizations will forward sponsored requests with recommendations for disposition to the Manager, NCS. Recommendations will be based on paragraph 16 of this directive.

(2) Forward notification of priority actions or denials of requests for priority actions to the requesting private industry entities, for disposition.

(3) Cooperate with the Manager, NCS, during reconciliation, revalidation, and audits.

e. Departments of State and Defense. The Departments of State and Defense will, in addition to the responsibilities listed in paragraph 10h below:

(1) Review and decide whether to sponsor requests for priority level assignments from foreign governments and forward sponsored requests to the Manager, NCS, with recommendations for disposition. Recommendations will be based on paragraph 16 of this directive and whether or not priority treatment is afforded to U.S. NSEP telecommunication service requirements in the foreign country concerned.

(2) Forward notification of priority actions or denials of requests for priority actions to the requesting foreign government entities, for disposition.

f. Department of Energy. The Department of Energy will, in addition to the responsibilities listed in paragraph 10h below:

(1) Review and decide whether to sponsor public and private interstate power utility company requests for priority actions and forward sponsored requests with recommendations for disposition to the Manager, NCS. Recommendations will be based on paragraph 16 of this directive. This does not preclude public and private power utility companies from obtaining sponsorship elsewhere.

(2) Forward notification of priority actions or denials of requests for priority actions to the requesting public and private power utility companies for disposition.

g. Federal Emergency Management Agency. The Federal Emergency Management Agency will, in addition to the responsibilities listed in paragraph 10h below:

(1) Review and decide whether to sponsor state and local government requests for priority actions and forward sponsored requests with recommendations for disposition to the Manager, NCS. Recommendations will be based on paragraph 16 of this directive.

(2) Forward notification of priority actions or denials of requests for priority actions to the requesting state and local government entities, for disposition.

h. Federal Organizations. Federal organizations will:

(1) Ensure that NSEP TSP System users within each organization comply with their obligations under the NSEP TSP System.

(2) Provision and restore government-provided services (which are interconnected with commercially provided services

assigned a priority level pursuant to paragraph 13 of this directive) in accordance with NSEP TSP System rules and regulations. (See paragraph 7a(2) of this directive.)

(3) Function (on a discretionary basis) as sponsoring Federal organizations for private sector service users (e.g., government contractors).

(4) Cooperate with the Manager, NCS, during reconciliation, revalidation, and audits.

i. Service Users. Service users, or entities acting on their behalf, will:

(1) Identify services requiring priority level assignments and request and justify priority level assignments in accordance with this directive and any supplemental NCS issuances.

(2) Justify and revalidate all priority level assignments at least every three years.

(3) For services assigned priority levels, ensure (through contractual means or otherwise) availability of customer premises equipment and wiring necessary for end-to-end service operation by the service due date, and continued operation; and, for such services in the Emergency NSEP category, by the time that vendors are prepared to provide the services. Additionally, designate the organization responsible for the service on an end-to-end basis.

(4) Be prepared to accept services assigned priority levels by the service due dates or, for services in the Emergency NSEP category, when they are available.

(5) Pay vendors any authorized costs associated with services that are assigned priority levels.

(6) Report to vendors any failed or unusable services that are assigned priority levels.

(7) Designate a 24-hour point-of-contact for matters concerning each request for priority action and apprise the Manager, NCS.

(8) Upon termination of services that are assigned priority levels, or circumstances warranting revisions in priority level assignment (e.g., expansion of service), request and justify revocation or revision.

(9) When NSEP treatment is invoked under paragraph 13c of this directive, within 90 days following provisioning of the service involved, forward to the Manager, NCS complete information identifying the time and event associated with the invocation and regarding whether the NSEP service requirement was adequately handled and whether any additional charges were incurred.

(10) Cooperate with the Manager, NCS, during reconciliation, revalidation, and audits.

j. Service Vendors. Service vendors will comply with the provisions of 47 CFR part 64. When those provisions are superseded by the President's war emergency powers under section 706 of the Communications Act, vendors will continue to comply with 47 CFR part 64, subject to further direction by Director, OSTP.

11. Preemption of Existing Services. When necessary to provision or restore NSEP services, service vendors may preempt services they provide as specified below. "User," as used in this section, means any user of a telecommunications service, to

include both NSEP and non-NSEP services. Prior consent by a preempted user is not required.

a. The sequence in which existing services may be preempted to provision NSEP services assigned a provisioning priority level "E" or restore NSEP services assigned a restoration priority level from "1" through "5":

(1) Non-NSEP services: If suitable spare services are not available, then, based on the considerations in 47 CFR part 64 and the service vendor's best judgement, non-NSEP services will be preempted. After ensuring a sufficient number of public switched services will remain available for public use, based on the service vendor's best judgement, such services may be used to satisfy a requirement for provisioning or restoring NSEP services.

(2) NSEP Services: If no suitable spare or non-NSEP services are available, then existing NSEP services may be preempted to provision or restore NSEP services with higher priority level assignments. When this is necessary, NSEP services will be selected for preemption in the inverse order of priority level assignment.

(3) Service vendors who are preempting services will ensure their best effort to notify the service user of the preempted service and state the reason for and estimated duration of the preemption.

b. Service vendors may, based on their best judgement, determine the sequence in which existing services may be preempted to provision NSEP services assigned a provisioning priority of "1" through "5." Preemption is not subject to the consent of the user whose service will be preempted.

12. Requests for Priority Actions. All service users are required to submit requests for priority actions through the Manager, NCS, in the format and following the procedures prescribed by the Manager.

13. Assignment, Approval, Use, and Invocation of Priority Levels.

a. Assignment and Approval of Priority Levels and Priority Actions.

(1) Priority level assignments or other priority actions will be based upon section 16, NSEP TSP System Categories, Criteria, and Priority Levels, of this directive. A priority level assignment or other priority action made by the Manager, NCS, will serve as the recommendation of the Director, OSTP (on behalf of the EOP) to the FCC. If the Director, OSTP does not approve the priority level assignment or other priority action made by the Manager, NCS, then the Director can direct the Manager, NCS, to revise or revoke the priority level assignment or other priority action.

(2) Until the President's war emergency powers under Section 706 of the Communications Act are invoked, priority level assignments or other priority actions must be approved by the FCC. (If the FCC does not approve the priority level assignment or other priority action, then it can direct the Manager, NCS, to revise or revoke the priority level assignment or other priority action.) However, the FCC has instructed service vendors to implement any priority level assignments or other priority actions that are pending FCC approval.

(3) After invocation of the President's war emergency powers, the requirement for FCC approval of priority level assignments or other priority actions may be superseded by other procedures issued by the Director, OSTP.

b. Use of Priority Level Assignments.

(1) All provisioning and restoration priority level assignments for services in the Emergency NSEP category will be included in initial service orders to vendors. Provision priority level assignments for Essential NSEP services, however, will not usually be included in initial service orders to vendors. NSEP treatment for Essential NSEP services will be invoked and provisioning priority level assignments will be conveyed to service vendors only if the vendors cannot meet needed service dates through the normal provisioning process.

(2) Any revision or revocation of either provisioning or restoration priority level assignments will also be transmitted to vendors.

(3) Service vendors shall accept priority levels and/or revisions only after assignment by the Manager, NCS. (Note: Service vendors acting as prime contractors for NSEP services will accept assigned NSEP priority levels only when they are accompanied by the Manager, NCS designated service identification (i.e., TSP Authorization Code). However, service vendors are authorized to accept priority levels and/or revisions from users and contracting activities before assignment by the Manager, NCS when service vendors, users, and contracting activities are unable to communicate with either the FCC, Director, OSTP, or the Manager, NCS. Processing of Emergency NSEP service requests will not be delayed for verification purposes.

c. Invocation of NSEP Treatment. To invoke NSEP treatment for the priority provisioning of an NSEP telecommunications service, an authorized Federal official either within, or acting on behalf of, the service user's organization must make a written or oral declaration to concerned service vendor(s) and the Manager, NCS, that NSEP treatment is being invoked. Authorized Federal officials include the head or director of a Federal agency, commander of a unified/specified military command, chief of a military service, or commander of a major military command; the delegates of any of the foregoing; or any other officials as specified in supplemental procedures issued by the Manager, NCS. The authority to invoke NSEP treatment may be delegated only to a general or flag officer of a military service, civilian employee of equivalent grade (e.g., Senior Executive Service member), Federal Coordinating Officer or Federal Emergency Communications Coordinator/Manager, or any other such officials specified in supplemental procedures issued by the EOP. Delegates must be designated as such in writing, and written or oral invocations must be accomplished, in accordance with supplemental procedures issued by the Manager, NCS.

14. Resubmission of Circuits Presently Assigned Restoration Priorities. All circuits assigned restoration priorities must be reviewed for eligibility for initial restoration

priority level assignment under the provisions of this directive. Circuits assigned restoration priorities, and for which restoration priority level assignments are requested under paragraph 12 of this directive, will be resubmitted to the Manager, NCS. To resubmit such circuits, service users will comply with applicable provisions of paragraphs 10i and 13 of this directive.

15. Appeal. Service users or sponsoring Federal organizations may appeal any priority level assignment, denial, revision, revocation, approval, or disapproval to the Manager, NCS within 30 days of notification to the service user. The appellant must use the form or format required by the Manager, NCS and must serve the FCC with a copy of its appeal. The Manager, NCS will act on the appeal within 90 days of receipt. Service users and sponsoring Federal organizations may only then appeal directly to the FCC. Such FCC appeal must be filed within 30 days of notification of the Manager, NCS' decision on appeal. Additionally, the Manager, NCS may appeal any FCC revisions, approvals or disapprovals to the FCC. All appeals to the FCC must be submitted using the form or format required. The party filing its appeal with the FCC must include factual details supporting its claim and must serve a copy on the Manager, NCS and any other party directly involved. Such party may file a response within 20 days, and replies may be filed within 10 days thereafter. The Commission will not issue public notices of such submissions. The Commission will provide notice of its decision to the parties of record. Any appeals to the Manager, NCS that include a claim of new information that has not been presented before for consideration may be submitted at any time.

16. NSEP TSP System Categories, Criteria, and Priority Levels.

a. General. NSEP TSP System categories and criteria, and permissible priority level assignments, are defined and explained below.

(1) The Essential NSEP category has four subcategories (i.e., National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety, and Maintenance of Law and Order; and Public Welfare and Maintenance of National Economic Posture). Each subcategory has its own criteria. Criteria are also shown for the Emergency NSEP category, which has no subcategories.

(2) Priority levels of "1," "2," "3," "4," and "5" may be assigned for provisioning and/or restoration of Essential NSEP telecommunication services. However, for Emergency NSEP telecommunication services, a priority level "E" is assigned for provisioning. A restoration priority level from "1" through "5" may be assigned if an Emergency NSEP service also qualifies for such a restoration priority level under the Essential NSEP category.

(3) The NSEP TSP System allows the assignment of priority levels to any NSEP telecommunications service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. Priority levels will normally be assigned only for the first time period. These assigned priority levels will

apply through the onset of any attack, but it is expected that they would later be revised by surviving authorized telecommunication resource managers within the Executive Office of the President based upon specific facts and circumstances arising during the Attack/War and Post-Attack/Recovery time periods.

(4) Service users may, for their own internal use, assign subpriorities to their services assigned priority levels. Receipt of and response to any such subpriorities is optional for service vendors.

(5) The following paragraphs provide a detailed explanation of the categories, subcategories, criteria, and priority level assignments, beginning with the Emergency NSEP category.

b. Emergency NSEP. Telecommunication services in the Emergency NSEP category are those new services so critical as to be required to be provisioned at the earliest possible time, without regard to the costs of obtaining them.

(1) *Criteria.* To qualify under the Emergency NSEP category, the service must meet the criteria of directly supporting or resulting from at least one of the following NSEP functions:

(a) Federal government activity responding to a Presidentially declared disaster or emergency as defined in the Disaster Relief Act (42 U.S.C. 5122).

(b) State or local government activity responding to a Presidentially, state, or locally declared disaster or emergency.

(c) Response to a state of crisis declared by the National Command Authorities (e.g., exercise of presidential war emergency powers under Section 706 of the Communications Act, supra).

(d) Efforts to protect endangered U.S. personnel or property.

(e) Response to an enemy or terrorist action, civil disturbance, natural disaster, or any other unpredictable occurrence that has damaged facilities whose uninterrupted operation is critical to NSEP or the management of other ongoing crises.

(f) Certification by the head or director of a Federal agency, commander of a unified/specified command, chief of a military service, or commander of a major military command, that the telecommunications service is so critical to protection of life and property or to NSEP that it must be provided immediately.

(g) A request from an official authorized pursuant to the Foreign Intelligence Surveillance Act (50 U.S.C. 1001 *et seq.* and 18 U.S.C. 2511, 2518, 2519).

(2) Priority Level Assignment.

(a) Services qualifying under the Emergency NSEP category are assigned priority level "E" for provisioning.

(b) After 30 days, assignments of provisioning priority level "E" for Emergency NSEP services are automatically revoked unless extended for another 30-day period. A notice of any such revocation will be sent to service vendors.

(c) For restoration, Emergency NSEP services may be assigned priority levels under the provisions applicable to Essential NSEP services (see paragraph 16.c.).

Emergency NSEP services not otherwise qualifying for restoration priority level assignment as Essential NSEP may be assigned a restoration priority level "5" for a 30-day period. Such 30-day restoration priority level assignments will be revoked automatically unless extended for another 30-day period. A notice of any such revocation will be sent to service vendors.

c. *Essential NSEP.* Telecommunication services in the Essential NSEP category are those required to be provisioned by due dates specified by service users, or restored promptly, normally without regard to associated overtime or expediting costs. They may be assigned priority levels of "1," "2," "3," "4," or "5" for both provisioning and restoration, depending upon the nature and urgency of the supported function, the impact of a lack of service or service interruption upon the supported function, and, for priority access to public switched services, the user's level of responsibility. Priority level assignments will be valid for no more than three years unless revalidated. To be categorized as Essential NSEP, a telecommunication service must qualify under one of the four subcategories described below: National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety, and Maintenance of Law and Order; or Public Welfare and Maintenance of the National Economic Posture. (Note: Under emergency circumstances, Essential NSEP telecommunication services may be recategorized as Emergency NSEP and assigned a priority level "E" for provisioning.)

(1) *National Security Leadership.* This subcategory will be strictly limited to only those telecommunication services essential to national survival if nuclear attack threatens or occurs, and critical orderwire and control services necessary to ensure the rapid and efficient provisioning or restoration of other NSEP telecommunication services. Services in this subcategory are those for which a service interruption of even a few minutes would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must be at least one of the following:

- (i) Critical orderwire, or control service, supporting other NSEP functions.
- (ii) Presidential communications service critical to continuity of government and national leadership during crisis situations.
- (iii) National Command Authority communications service for military command and control critical to National survival.

(iv) Intelligence communications service critical to warning of potentially catastrophic attack.

(v) Communications service supporting the conduct of diplomatic negotiations critical to arresting or limiting hostilities.

(b) *Priority Level Assignment.* Services under this subcategory will normally be assigned, during Peacetime/Crisis/Mobilization, priority level "1" for provisioning and restoration.

(2) *National Security Posture and U.S. Population Attack Warning.* This subcategory covers those minimum additional

telecommunication services essential to maintaining an optimum defense, diplomatic, or continuity-of-government posture before, during, and after crisis situations. Such situations are those ranging from national emergencies to international crises, including nuclear attack. Services in this subcategory are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

- (i) Threat assessment and attack warning.
- (ii) Conduct of diplomacy.
- (iii) Collection, processing, and dissemination of intelligence.
- (iv) Command and control of military forces.

(v) Military mobilization.

(vi) Continuity of Federal government before, during, and after crisis situations.

(vii) Continuity of state and local government functions supporting the Federal government during and after national emergencies.

(viii) Recovery of critical national functions after crisis situations.

(ix) National space operations.

(b) *Priority Level Assignment.* Services under this subcategory will normally be assigned, during Peacetime/Crisis/Mobilization, priority levels "2," "3," "4," or "5" for provisioning and restoration.

(3) *Public Health, Safety, and Maintenance of Law and Order.* This subcategory covers the minimum number of telecommunication services necessary for giving civil alert to the U.S. population and maintaining law and order and the health and safety of the U.S. population in times of any national, regional, or serious local emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP functions.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

- (i) Population warning (other than attack warning).
- (ii) Law enforcement.
- (iii) Continuity of critical state and local government functions (other than support of the Federal government during and after national emergencies).
- (iv) Hospitals and distribution of medical supplies.

(v) Critical logistic functions and public utility services.

(vi) Civil air traffic control.

(vii) Military assistance to civil authorities.

(viii) Defense and protection of critical industrial facilities.

(ix) Critical weather services.

(x) Transportation to accomplish the foregoing NSEP functions.

(b) *Priority Level Assignment.* Services under this subcategory will normally be assigned, during Peacetime/Crisis/Mobilization, priority levels "3," "4," or "5" for provisioning and restoration.

(4) *Public Welfare and Maintenance of National Economic Posture.* This subcategory covers the minimum number of

telecommunication services necessary for maintaining the public welfare and national economic posture during any national or regional emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Distribution of food and other essential supplies.

(ii) Maintenance of national monetary, credit, and financial systems.

(iii) Maintenance of price, wage, rent, and salary stabilization, and consumer rationing programs.

(iv) Control of production and distribution of strategic materials and energy supplies.

(v) Prevention and control of environmental hazards or damage.

(vi) Transportation to accomplish the foregoing NSEP functions.

(b) *Priority Level Assignment.* Services under this subcategory will normally be assigned, during Peacetime/Crisis/Mobilization, priority levels "4" or "5" for provisioning and restoration.

d. *Limitations.* Priority levels will be assigned only to the minimum number of telecommunication services required to support an NSEP function. Priority levels will not normally be assigned to back-up services on a continuing basis, absent additional justification (e.g., a service user specifies a requirement for physically diverse routing or contracts for additional continuity-of-service features). The Executive Office of the President may also establish limitations upon the relative numbers of services which may be assigned any restoration priority level. These limitations will not take precedence over laws or executive orders. Such limitations shall not be exceeded absent waiver by the Executive Office of the President.

e. *Non-NSEP Services.* Telecommunication services in the non-NSEP category will be those which do not meet the criteria for either Emergency NSEP or Essential NSEP.

17. *Authorizing Provision.* NCS manuals implementing this directive are authorized.

18. *Effective Date.* This directive is effective immediately.

19. *Expiration.* This directive is in effect until superseded or cancelled.

Appendix:

A. *Definitions*
Director, Office of Science and Technology Policy.

Dated: July 5, 1990.

Director, Office of Management and Budget.

Dated: July 5, 1990.

Assistant to the President for National Security Affairs.

Dated: July 5, 1990.

Summary of Changes: Initial publication

Appendix A.—Definitions

For the purposes of this Directive:

Assignment

The designation of priority level(s) for a defined NSEP telecommunications service for a specified time period.

Audit

A quality assurance review in response to identified problems.

Committee of Principals (COP)

As specified by Executive Order 12472, a committee consisting 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.

Government

The Federal government or any foreign, state, county, municipal, or other local government agency or organization. Specific qualifications will be supplied whenever reference to a particular level of government is intended (e.g., "Federal government," "state government"). "Foreign government" means any non-U.S. sovereign empire, kingdom, state, or independent political community, including foreign diplomatic and consular establishments and coalitions or associations of governments (e.g., North Atlantic Treaty Organization (NATO), Organization of American States (OAS), and United Nations (UN); and associations of governments or government agencies or organizations (e.g., Pan American Union, International Postal Union, and International Monetary Fund).

National Communications System (NCS)

The National Communications System (NCS) is a confederation of Federal departments, agencies and entities established by Presidential Memorandum of August 21, 1963 and reaffirmed by Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984.

National Coordinating Center (NCC)

The joint telecommunications industry—Federal government operation established by the NCS to assist in the initiation, coordination, restoration and reconstitution of NSEP telecommunication services or facilities.

National Security Emergency Preparedness (NSEP) Telecommunication Services or NSEP Services

Telecommunication services that are used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international) that causes or could cause injury or harm to the population, damage to or loss of property, or degrades or threatens the NSEP posture of the United States. These services fall into two specific categories. Emergency NSEP and Essential NSEP and are assigned priority levels.

National Security Emergency Preparedness (NSEP) Treatment

The provisioning of a telecommunications service before others based on the provisioning priority level assigned by the Manager, NCS, in accordance with this directive.

Priority Action

The assignment, revision, revocation, or revalidation by the Manager, NCS, in accordance with this directive, of a priority level associated with an NSEP telecommunications service.

Priority Level

The level that may be assigned to an NSEP telecommunications service specifying the order in which provisioning or restoration of the service is to occur relative to other NSEP and/or non-NSEP telecommunication services. Authorized priority levels are designated (highest to lowest) "E," "1," "2," "3," "4," and "5" for provisioning and "1," "2," "3," "4," and "5" for restoration.

Priority Level Assignment

The priority level(s) designated for the provisioning and/or restoration of a particular NSEP telecommunications service.

Private NSEP Telecommunication Services

Those non-common carrier telecommunication services including private line, virtual private line, and private switched network services.

Provisioning

The act of supplying telecommunications service to a user, including all associated transmission, wiring, and equipment. As used herein, "provisioning" and "initiation" are synonymous and include altering the state of an existing priority service or capability.

Public Switched NSEP Telecommunication Services

Those NSEP telecommunication services utilizing public switched networks. Such services may include both interexchange and intraexchange network facilities (e.g., switching systems, interoffice trunks and subscriber loops).

Reconciliation

The comparison of NSEP service information and the resolution of identified discrepancies.

Restoration

The repair or returning to service of one or more telecommunication services that have experienced a service outage or are unusable for any reason, including a damaged or impaired telecommunications facility. Such repair or returning to service may be done by patching, rerouting, substitution of component parts or pathways, and other means, as determined necessary by a service vendor.

Revalidation

The rejustification by a service user of a priority level assignment. This may result in extension by the Manager, NCS, in accordance with this directive, of the

expiration date associated with the priority level assignment.

Revision

A change in priority level assignment for an NSEP telecommunications service. This includes any extension of an existing priority level assignment to an expanded NSEP service.

Revocation

The elimination of a priority level assignment when it is no longer valid. All priority level assignments for an NSEP service are revoked upon service termination.

Service Identification

Information uniquely identifying an NSEP telecommunications service to the service vendor and/or service user.

Service User

Any individual or organization (including a service vendor) supported by a telecommunications service for which a priority level has been requested or assigned.

Service Vendor

Any person, association, partnership, corporation, organization, or other entity (including common carriers and government organizations) that offers to supply any telecommunication equipment, facilities, or services (including customer premises equipment and wiring) or combination thereof. The term includes resale carriers, prime contractors, subcontractors, and interconnecting carriers.

"Spare" Circuits or Services

Circuits or services not being used or contracted for by any customer.

Telecommunication Services

The transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, visual, or other electronic, electric, electromagnetic, or acoustically coupled means, or any combination thereof. The term can include necessary telecommunication facilities.

Telecommunications Service Priority (TSP) System User

Any individual, organization, or activity that interacts with the TSP System.

[NCS Directive 3-3]

Telecommunications Operations—Shared Resources (SHARES) High Frequency (HF) Radio Program

September 30, 1988.

1. **Purpose.** This directive establishes National Communications System (NCS) policies pertaining to operation and use of the Shared Resources (SHARES) High Frequency (HF) Radio Program.

2. **Applicability.** This directive is binding upon NCS and other Executive entities who voluntarily elect to participate in the SHARES HF Radio Program.

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 FR 13471 (1984); and NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

4. References.

a. Executive Order (E.O.) No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984).

b. National Telecommunications & Information Administration (NTIA), "Manual of Regulations and Procedures for Federal Radio Frequency Management," May, 1986 Edition as revised May, 1987 or current edition/revision.

5. General.

a. E.O. No. 12472 established national policy guidance in support of National Security Emergency Preparedness (NSEP) objectives. Executive Order No. 12472 mandates that action be taken to ". . . ensure that a national telecommunications infrastructure is developed . . .". Consistent with the Executive Order, functionally similar government telecommunications networks should be designed to interchange traffic in support of national leadership requirements.

b. The SHARES HF Radio Program will provide a backup capability to exchange critical information among Federal entities to support NSEP. Federally controlled HF radio resources will be shared to establish a robust NSEP HF radio communications infrastructure. The program involves a collection of existing Federally controlled HF radio stations that inter-operate to transmit NSEP messages when normal means of communication are not available.

6. Policy.

a. Any participating Federal entity will accept, to the extent that acceptance does not interfere with the mission responsibilities of the entity, emergency messages of other Federal entities, or other components of the same entity, for transmission by HF radio to the addressee or to another participant for relay to the addressee.

b. A SHARES message is an emergency message to be sent via the SHARES network. It consists of information that must be communicated to a Federal entity and is of critical importance to the Federal Government, the entity's mission, and/or involves the preservation of life and the protection of property.

c. Transmission of SHARES messages will be guided by the policy of the agency accepting the message. Advice that a "SHARES Message" is to be transmitted will serve to notify operating personnel that a critical NSEP message requirement exists, and implicitly, that normal communication paths are not available.

7. Responsibilities.

a. NCS entities participating in the SHARES HF Radio Program will, to the maximum extent possible:

(1) Identify HF stations under their control for participation in the SHARES Program.

(2) Maintain the operational readiness of their SHARES HF stations.

(3) Provide updated information as necessary for inclusion in a SHARES HF Radio Program Directory. Use of Federal frequencies for SHARES traffic shall be in accordance with National Telecommunications and Information Administration (NTIA) "Manual of

Regulations and Procedures for Federal Radio Frequency Management."

(4) Ensure participation of available stations in scheduled exercises.

(5) Provide representation, as required, at meetings, briefings, conferences, and other official SHARES HF Radio Program activities.

b. The Manager, NCS, will administer the SHARES HF Radio Program and perform the management functions defined below:

(1) Publish and periodically update, as NCS issuances, a User Manual, giving detailed procedures for using SHARES HF Radio Program capabilities, and HF Directory of participating Federally controlled HF radio stations.

(2) Develop, schedule, and administer periodic exercises of the SHARES HF Radio Program capabilities.

(3) Perform other functions, as necessary, to improve SHARES capabilities.

8. *Authorizing Provision.* NCS manuals implementing this directive are authorized.

9. *Effective Date.* This directive is effective immediately.

10. *Expiration.* This directive is in effect until superseded or cancelled.

Director, Office of Science and Technology Policy.

Dated: January 27, 1989.

Director, Office of Management and Budget.

Dated: January 19, 1989.

Assistant to the President for National Security Affairs.

Dated: January 6, 1989.

[FR Doc. 90-25068 Filed 12-10-90; 8:45 am]

BILLING CODE 3810-01-M

SECTION 606*
COMMUNICATIONS ACT OF 1934

COMMUNICATIONS ACT OF 1934, AS AMENDED
WAR EMERGENCY -- POWERS OF PRESIDENT

SEC. 606. (a) During the continuance of a war in which the United States is engaged, the President is authorized, if he finds necessary for the national defence and security, to direct that such communications as in his judgment may be essential to the national defence and security shall have preference or priority with any carrier subject to this Act. He may give these directions at and for such items as he may determine, and may modify, change, suspend, or annul then and for any such purpose he is hereby 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 hereby authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communications: Provided. That nothing in this section shall be construed to repeal, modify, or affect either section 6 or section 20 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 14, 1914.

(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 this 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 of control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

**Section 606 has been renumbered as 706.*

(d) Upon proclamation by the President that there exists a state of threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defence, 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 communications 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 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 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 24, or by section 145 of the Judicial Code, as amended.

(f) Nothing in subsection (c) or (d) 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) 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) 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 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 offence by a fine or not more than \$1,000 or by imprisonment for not more than one year, or both, and, if firm, partnership, association, or corporation, by 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 offence 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.

D-601

EXECUTIVE ORDER DELEGATING AUTHORITY FOR THE EXERCISE
OF THE PRESIDENT'S WAR AND EMERGENCY TELECOMMUNICATIONS POWERS

SUMMARY

DESCRIPTION: D-601 is an Executive order that delegates authority for the exercise of the President's war and emergency telecommunications powers. It also identifies the responsibilities of the National Security Council, the Office of Science and Technology Policy, the Federal Communications Commission, and the National Communications System.

AGENCIES WITH PRIMARY RESPONSIBILITY: The Office of Science and Technology Policy; the National Security Council.

SUPPORTING AGENCY: The National Communications System.

LEGAL BASIS: Section 606 of Title 47 of the United States Code authorizes the President to take certain actions regarding telecommunications resources. The President may, depending upon the situation: direct preferences for communications he judges to be essential to the national defense and security; employ the U.S. armed forces to prevent obstruction of communications; suspend or amend applicable rules and regulations and cause the closing of radio stations or of any devices emitting electromagnetic radiation; or suspend or amend rules and regulations applicable to wire communications, close any wire communications facility, or authorize their use or control by any Department or Agency upon just compensation to owners.

Executive Order 12472, 49 Fed. Reg. 13471 (1984), established the National Communications System, set out its responsibilities, and detailed the relationship among the Agencies that have emergency preparedness telecommunications authority.

USAGE/OPTIONS: Different provisions within 47 U.S.C. 606 may be used in varying circumstances, including time of war or attack, a Presidential proclamation of war, threat of war, a state of public peril or disaster or other national emergency, or whenever the public interest requires. A Congressional declaration of war is not required.

PUBLICATION/TRANSMITTAL/REPORTING REQUIREMENTS: Transmittal to Congress, and publication in the Federal Register or dissemination through the Emergency Federal Register, are required by the terms of this Executive order.

LAST DATE OF REVIEW: January 1989

D-601

EXECUTIVE ORDER

DELEGATING AUTHORITY FOR THE EXERCISE
OF THE PRESIDENT'S WAR AND EMERGENCY
TELECOMMUNICATIONS POWERS

WHEREAS, a state or threat of war, [_____
Describe other national

_____] exists that constitutes a grave threat to
security emergency

the Nation, endangering the lives and welfare of the people and
threatening to impair the security of the United States; and

WHEREAS, it is imperative to institute emergency measures to
ensure that the Nation's telecommunications resources are available
for the full, effective, and uninterrupted conduct of national and
international affairs.

NOW, THEREFORE, by the authority vested in the President by the
Constitution and laws of the United States, particularly section 706 of
the Communications Act of 1934, as amended, 47 U.S.C. 606; and section
301 of Title 3 of the U.S. Code, it is ordered as follows:

Section 1. Assignment of Responsibility and Delegations of
Authority. (a) As provided in section 2(a)(1) of Executive Order 12472,

49 Fed. Reg. 13471 (1984), the National Security Council (NSC) shall provide policy direction for the exercise of the President's war and emergency power under Section 706 of the Communications Act of 1934, as amended, section 606 of Title 47 of the U.S. Code, to support the conduct of national and international affairs.

(b) As provided in section 2(a)(2) of Executive Order 12472, the Director of the Office of Science and Technology Policy (Director), shall direct the exercise of the war and emergency functions assigned to the President under section 706 of the Communications Act of 1934, as amended, section 606 of Title 47 of the U.S. Code, excluding the authority granted by subsection 706(b) of the Act.

(c) The Director is authorized to redelegate these functional responsibilities.

Section 2. Duties of the Director, Office of Science and Technology Policy. (a) The Director will function as the Federal authority in all matters relating to the employment of the Nation's telecommunications resources in support of the conduct of national and international affairs.

(b) The Director shall issue directives as necessary to effect the provisions of this Executive order.

Section 3. Federal Communications Commission Rules and Regulations. Notwithstanding section 706 of the Communications Act of 1934, as amended, section 606 of Title 47 of the U.S. Code, the rules and regulations of the Federal Communications Commission shall remain in force and be administered by the Commission until such time as the Director determines that amendment or suspension is required.

Section 4. Reporting Requirements. This Executive order immediately shall be published in the Federal Register or disseminated through the Emergency Federal Register, and transmitted to Congress.

Section 5. Judicial Review. This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

THE WHITE HOUSE

[PRESIDENT'S SIGNATURE]

_____, 19__

EXECUTIVE ORDER DELEGATING AUTHORITY FOR THE EXERCISE
OF THE PRESIDENT'S WAR EMERGENCY TELECOMMUNICATIONS POWERS

COMMENTS

D-601 is an Executive order by which the President delegates his wartime authority over national telecommunications resources to the Director of the Office of Science and Technology Policy. The President would take such an action in order to meet requirements for telecommunications services beyond those normally provided by, or available from, individual commercial suppliers or government Agencies.

Legal Basis

There is express statutory authority for this Executive order. Section 706 of the Communications Act of 1934 entitled "War Powers of the President," codified at section 606 of Title 47 of the U.S. Code, authorizes the President to take actions that may be necessary to control and coordinate the telecommunications systems. The President may:

- (a) during the continuance of a war in which the United States is engaged, direct communications he judges to be essential to the national defense and security (47 U.S.C. 606(a));
- (b) during any war in which the United States is engaged, and whenever in his judgment the public interest requires, employ the U.S. armed forces to prevent obstruction of communications (47 U.S.C. 606(b));
- (c) upon a Presidential proclamation of war, threat of war, state of public peril, disaster or other national emergency or to preserve the neutrality of the United States, suspend or amend applicable rules and regulations and cause the closing of radio stations or of any devices capable of emitting electromagnetic radiations suitable for use as a navigational aid beyond five miles (47 U.S.C. 606(c)); or
- (d) upon a Presidential proclamation of a state or threat of war involving the United States and under such circumstances as he may prescribe, suspend or amend rules and regulations applicable to wire communications, close any such facility, or authorize the use or control by any Department or Agency upon just compensation to owners (47 U.S.C. 606(d)).

Executive Order 12472, 49 Fed. Reg. 13471 (1984), entitled "Assignment of National Security and Emergency Preparedness Telecommunications Functions," formalizes the existence of the National

¹The Communications Act of 1934 was amended in 1984, and sections 601-610 of the Act were renumbered sections 701-710 of the Act. These provisions, however, remain codified at 47 U.S.C. 601-610. See Pub. L. 98-549, 98 Stat. 2804 (1984). See also 47 U.S.C. 606.

Communications System (NCS), defines its responsibilities, and outlines the National Security Emergency Preparedness (NSEP) telecommunications responsibilities of the National Security Council (NSC), the Office of Science and Technology Policy (OSTP), and the Federal Communications Commission (FCC).

The NCS consists 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 consists of representatives from those Federal Departments, Agencies, and entities designated by the President, that lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and other Federal entities that bear policy, regulatory, or enforcement responsibilities of importance to national security emergency preparedness telecommunications capabilities.² Executive Order 12472, section 1(a).

Section 2 of Executive Order 12472 divides responsibilities between the National Security Council and the Office of Science and Technology Policy in time of war or attack, providing that the NSC shall provide policy direction and that the OSTP shall direct the exercise of the war power functions of the President "should the President issue implementing instructions in accordance with the National Emergencies Act." Id. D-601 provides these implementing instructions.³

Historical Perspective

There are historic precedents for Presidential control of telecommunications facilities and services. Congress first recognized a need for legislation in this area during World War I, when it became apparent that the President might, in wartime situations, need to assume control of commercial and private telephone, telegraph, radio, or other telecommunications systems in order to guard the secrecy of war dispatches and prevent communications between enemies.

²By direction of the Executive Office of the President, the NCS member organizations are the: Central Intelligence Agency, Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Interior, Department of Justice, Department of State, Department of Transportation, Department of the Treasury, Federal Emergency Management Agency, General Services Administration, Joint Chiefs of Staff, National Aeronautics and Space Administration, National Security Agency, National Telecommunications and Information Administration, U.S. Information Agency, and Veterans Administration. The Federal Communications Commission, Federal Reserve System, Nuclear Regulatory Commission, and U.S. Postal Service participate in the activities of the NCS as non-voting liaison members.

³Regulations also have been promulgated detailing Presidential wartime authority over telecommunications. See 47 C.F.R., Parts 201-215. These regulations are currently under revision.

Congress passed a resolution in 1918 granting such control and designating the Postmaster General as the President's agent to take possession and control over the operation of telephone and telegraph companies, including the setting of intrastate rates. See Res. No. 38, 65th Cong., 40 Stat. 904 (1918). The President's power to exercise such control over intrastate and private telecommunication services withstood a series of legal challenges based upon the State police power. See Dakota Cent. Telephone Co. v. State of South Dakota ex rel. Payne, 250 U.S. 163 (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 in 1919, Congress subsequently granted the President similar powers over radio communications through the Communications Act of 1934. The Act was amended in 1942 to bring communications such as telephone and telegraph systems within the Presidential war emergency powers. At that time, Congress recognized that comprehensive Presidential control over telecommunications could be pivotal in a war or national emergency:

[T]he 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. H.R. Rep. No. 1546, 77th Cong., 1st Sess. 3 (1941).

President Franklin D. Roosevelt delegated the exercise of his war emergency telecommunications powers to the Defense Communications Board on March 6, 1942. See E.O. 9089, 7 Fed. Reg. 1777 (1942). The Board, however, never acted under the war emergency powers, but instead served merely as an interface with the cooperative telephone industry.

President Truman also acted under the telecommunications war emergency powers during the Korean conflict. He delegated to the FCC limited authority to minimize the use of radio stations that could aid enemy navigation. See E.O. 10312, 16 Fed. Reg. 12452 (1951). The FCC never exercised its war emergency powers, possibly because the conflict was limited to a foreign country and caused no major destruction of domestic assets.

Presidential Considerations

The President's powers over telecommunications in time of war or national emergency are many and varied. The President may:

o 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 FCC. He may take such action only "during the continuance of a war in which

the United States is engaged," and must find the action necessary for national defense and security. See 47 U.S.C. 606(a). The required state of war might be evidenced, for example, by actions including a Congressional declaration of war under article I, section 8, clause 11 of the U.S. Constitution, or by a direct attack on the United States.

o Use the armed forces to prevent actual or threatened physical obstruction or retardation of interstate or foreign communication. The President may take such action only "during any war in which the United States is engaged," and must find the action required in the public interest. See 47 U.S.C. 606(b). The required state of war might be evidenced by actions including a Congressional declaration of war under article I, section 8, clause 11 of the U.S. Constitution, or by a direct attack on the United States.

o 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 United States. The President may take such action either (a) upon Presidential proclamation that war or threat of war involving the United States, or state of public peril or disaster or other national emergency, exists; or (b) to preserve the neutrality of the United States. In addition, he must find the action necessary for the national defense or security. See 47 U.S.C. 606(c). Such stations and devices include those involved in radio, microwave, and satellite links; other telecommunications services whose transmission paths are not confined to wire or cable; and those which provide electromagnetic services such as radar.

o Cause the closing of, remove apparatus and equipment from, or authorize U.S. 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. The President may take such action either (a) upon a Presidential proclamation that war or threat of war involving the United States, or state of public peril or disaster or other national emergency, exists; or (b) to preserve the neutrality of the United States. In addition, he must find such action necessary for the national defense or security. See 47 U.S.C. 606(c). 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.

o Suspend or amend FCC-prescribed rules and regulations applicable to, cause the closing of or removal of apparatus and equipment from, or authorize U.S. governmental use or control of any or all, facilities or stations for wire communications within the jurisdiction of the United States. The President may take such action only upon a Presidential proclamation that war or threat of war involving the United States exists. In addition, he

must find the action necessary for national defense and security. See 47 U.S.C. 606(d). These facilities and stations include those used to provide such services as telephone, telegraph, and datafax, regardless of the kind of technology employed.

Implementation Considerations

After the President has issued this Executive order specifying his proposal to act, Presidential war powers granted by section 606 of Title 47, except those granted by section 606(b), which deals with employment of the U.S. armed forces, are delegated to the Director of the Office of Science and Technology Policy. See section (2)(a), E.O. 12472, 49 Fed. Reg. 13471 (1984).

The Executive Agent of the NCS and the Defense Commissioner of the FCC will advise and assist the Director of OSTP concerning the exercise of the war powers.

Limitations

Several types of crises or emergencies may have significant telecommunications implications, yet Presidential authority under section 606 of Title 47 of the U.S. Code may not be available. Depending upon circumstances, these situations may include: (a) major disasters declared by the President; (b) extraordinary situations declared by the Federal Emergency Management Agency (FEMA); or (c) critical situations having the potential to develop into emergencies, major disasters, or extraordinary situations declared by the President or FEMA. These types of situations may be handled by the FCC or the Director, OSTP. The Director will, as appropriate, provide advice to the President, consult with the Joint Telecommunications Resources Board (JTRB), and request action by Board members and from any other necessary Agencies.⁴ When needed, the Chairman of the JTRB will provide advice and refer the information for action to the President, Board members, and other Agencies.⁵

⁴The Director, Office of Science and Technology Policy (OSTP) chairs the JTRB. The following Agencies, 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 Assistant Administrator, Office of Information Resources Management; Federal Emergency Management Agency, by the Assistant Associate Director for Information Resources Management; Federal Communications Commission, by the Managing Director; and National Communications System, by the Manager. See Section 2(b), E.O. 12472, 49 Fed. Reg. 13471 (1984).

⁵This action may include reprioritizing the restoration of telecommunications services; developing emergency telecommunications procedures; implementing Federal recovery operations under the Disaster Relief Act of 1974, beginning at 42 U.S.C. 5121 et seq.; establishing priorities regarding, and forcing acceptance and performance of, certain telecommunications contracts, and allocating telecommunications equipment and materials, under the Defense

Reporting Requirements

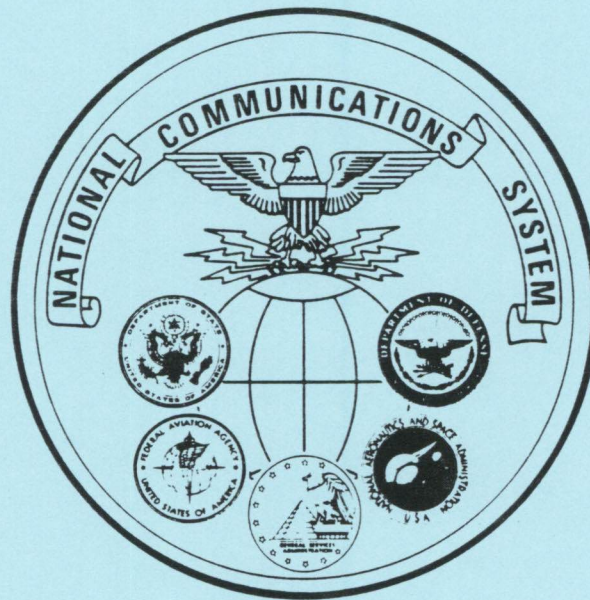
Section 2(a) of Executive Order 12472 requires the President to issue implementing instructions in accordance with the National Emergencies Act, 50 U.S.C. 1601-51, as a precondition to his delegation of his war power functions to the Director, OSTP.

The National Emergencies Act, 50 U.S.C. 1601-51, applies to those statutes that require a Presidential declaration of a national emergency as a precondition to their use. Statutes with preconditions such as a time or state of war, or any precondition other than a national emergency, generally do not fall within the requirements of the Act. Section 1641 of Title 50 of the U.S. Code, however, makes the accountability and reporting requirements of the Act applicable to the President when he declares a national emergency or when Congress declares war. In either instance, the President becomes responsible for maintaining a file and index of all significant Presidential orders, including Executive orders and Proclamations, issued during the emergency or war, pursuant to such declarations. In addition, each Agency is required to maintain a file and index of all rules and regulations issued during such an emergency or war, pursuant to such declarations. See 50 U.S.C. 1641(a).

The President is required in both instances, within 90 days after the end of each six month period after a declaration of war or national emergency, to report on the total expenditures incurred by the U.S. Government during each period which are directly attributable to the exercise of powers and authorities conferred by the declaration of war or national emergency. 50 U.S.C. 1641(c). For further information concerning the requirements of the National Emergencies Act, see A-103, "Proclaiming the Existence of a National Emergency."

Priorities and Allocations System, see 50 U.S.C. App. 2071-2073, 2151-2157, 2159, and 2163; or merely monitoring potential and actual emergency situations using the resources of the National Coordinating Center (NCC) and FEMA's National Emergency Information Coordinating Center/National Network Operations Center (NECC/NNOC). The National Security Council will advise and assist the President in coordinating any such action within the Federal government. See section 2(b), E.O. 12472, 49 Fed. Reg. 13471 (1984).

**THE EVOLUTIONARY ROLES AND MISSIONS
OF THE JOINT TELECOMMUNICATIONS
RESOURCES BOARD**



Prepared by

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

MAY 13, 1988

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INTRODUCTION

This study was conducted on behalf of the Office of the Manager, National Communications System (OMNCS). Its objective is to examine the role of the Joint Telecommunications Resources Board (JTRB) against the backdrop of other Federal entities assigned related telecommunication emergency management responsibilities and functions, with a view towards determining the purpose of the JTRB and ways in which it might be more effective.

This study is divided into two parts: the body of the report, plus a series of appendices which contain pertinent information, supporting documentation and analyses from which conclusions in the report were reached.

1.0 EXECUTIVE SUMMARY

This study found that the JTRB is necessary as an independent body (i.e., that it would not be practicable to have other Federal entities subsume its functions) but that its intended role has been perhaps misconstrued.

The following conclusions and recommendations were reached:

- . There is policy precedent for an active Federal Government role in telecommunications management, particularly in emergencies and times of increased tension.
- . The JTRB is the latest construct in a long sequence of events implementing the Federal Government's policy toward telecommunications.
- . The focus of the JTRB is that of an "authority of last resort" (i.e., "court of last appeal") on a number of telecommunications-related management issues.
- . Too much emphasis has been placed on the JTRB's operational role vice other missions.
- . There is a new role for the JTRB as the functional group for telecommunications coordination within the new National System for Emergency Coordination.
- . The JTRB should assess its policy-making role during the events leading up to an invocation of the Section 706 war emergency powers and its potential role as telecommunications coordinator within the National System for Emergency Coordination.
- . If future operational exercises are conducted, a scenario which stresses the JTRB's role in resolving high-level issues should be used.
- . In summary, it is recommended that a sequence of JTRB meetings (vice operational exercises) should be considered that would take as agendas policy matters which are appropriately within the Board's focus.

2.0 SUMMARY OF FEDERAL GOVERNMENT TELECOMMUNICATIONS MANAGEMENT POLICY

2.1 WARTIME

Section 706 of the Communications Act of 1934,¹ as amended, is a significant presidential tool, particularly since the Federal Government relies heavily upon commercial telecommunications (approximately 95 percent of the Federal Government's telecommunication services in the United States are provided by commercial carriers). In general, Section 706 war emergency powers allow the President to: direct priority for essential communications with any commercial or governmental carrier and to prevent obstruction of communications during war; suspend or amend rules/regulations, close stations and facilities; and authorize U.S. Government use and control of electromagnetic radiation with regard to (a) radio communications (during war, or Presidentially-declared threat of war, public peril, disaster or national emergency or a need to preserve the neutrality of the U.S.) and (b) wire communications (during war or threat of war).

Executive Order 12046, Relating to the Transfer of Telecommunications Functions² assigned to the Director of the Office of Science and Technology Policy (OSTP) the responsibility for preparing to direct the exercise of the President's Section 706 war emergency powers.

2.2 NONWARTIME

Under conditions in which the President's Section 706 war emergency powers are involved, the Director, OSTP, is the clearly defined single authority for telecommunications resource management who is assigned the responsibility to serve as the authority for emergency telecommunications information and advice to the President. However, until the promulgation of Executive Order 12472 on April 3, 1984, there was no such identified authority which could provide Executive Office attention and direction in a pre- or non-Section 706 environment requiring Federal response (e.g., Presidentially-declared emergencies, FEMA-declared extraordinary situations, and critical situations which have the potential to lead up to an invocation of the Section 706 war emergency powers).³

2.2.1 E.O. 12472 Provisions for a JTRB

Cognizant Federal entities, recognizing this gap, sought to rectify it in the coordination and preparation of E.O. 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, which assigned specific nonwartime

emergency telecommunications functions to the NSC and the Director, OSTP.⁴ Specifically, Sections 2(b)(2) and (2)(b)(3) provide:

"(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."

The establishment of a JTRB was viewed as appropriate for a number of reasons. First, in light of the multiple Federal telecommunication policymakers during a national emergency, it would bring together those Federal entities with key authorities; the JTRB's strength would lie in the sharing of critical information among its members so that vital decisions would not be made without the benefit of all the necessary expertise. Second, assignment of the Director, OSTP, as Chairman provides both a direct channel for information flow to the EOP and an authoritative source for coordination of the exercise of authorities by those multiple Federal telecommunication policymakers. Finally, it provides continuity by designating the Director, OSTP, the identified authority for providing emergency telecommunications information and advice to the President in both a pre-Section 706 and Section 706 environment.

2.2.2 Establishment of the JTRB

By memorandum dated July 30, 1984, the Director, OSTP, established the JTRB, selected those departments, agencies, or entities which compose its membership; and designated selected officials and alternates to serve as representatives. As noted at the July 24, 1985, inaugural meeting of the JTRB, Federal organization participants were selected based on the extent of their communication assets, potential control over assets, or importance of their responsibilities to effective execution of the mission of the JTRB.⁵

3.0 INTENDED ROLE OF THE JTRB

3.1 INAUGURAL MEETING

The minutes of the inaugural meeting of the JTRB on July 24, 1985, provide insight on the envisioned role of the Board. The following is an excerpt:

"Dr. Keyworth [then-Director, OSTP] emphasized that the JTRB was created to assist OSTP by helping to develop telecommunications policy and strategies to maintain the viability of the nation's telecommunications infrastructure in times of emergency. He indicated that the JTRB should function much like a corporate board of directors in planning for telecommunications emergencies and acting as advisors regarding the allocation of telecommunications assets during telecommunications emergencies."⁶

3.2 INTERIM JTRB SOP

The JTRB's role and functions were also delineated in the Interim JTRB Standard Operating Procedures (SOP), which were approved by the JTRB at its inaugural meeting.⁷ Paragraph IV of that SOP, "Applicability and Scope of Responsibility," defines the JTRB's role as follows:

"b. The JTRB's basic role is to monitor potential or actual telecommunications emergency situations that pose significant threats to telecommunication facilities or services, and situations that may create the need for extraordinary telecommunications support..."

3.3 NATIONAL PLAN

The JTRB's roles and functions within the national posture for Federal response to non-wartime emergencies are described in the National Plan for Telecommunications Support in Non-Wartime Emergencies, September 1987 (hereinafter "National Plan").⁸

With regard to the JTRB's role as "decisionmaker of last resort," Section III(B)(1)(h), "Operational Phases - Deployment," states the following:

"h. . . . When the allocation of telecommunication resources cannot be resolved by the CRM [Crisis Resource Manager], the matter will be presented to the Manager, NCS. . . . If the matter cannot be resolved by the Manager to the satisfaction of the parties involved, it will be presented to the JTRB for resolution."

3.4 DISCUSSION (MISCONSTRUED OPERATIONAL ROLE)

Although the JTRB's roles and functions are somewhat broadly written, Federal programs, experience, and EOP guidance seem to have interpreted and directed the mission of the JTRB and to have elaborated on those situations -- and for what purposes -- the JTRB might be utilized. As discussed in this study, the JTRB may be looked at as a "court of last resort" with regard to resolving claimancy issues involving resource allocation -- to wit, that it will be convened for purposes of resolving high priority issues which have flowed up through several levels of authority which have been unable -- or did not have authority -- to resolve them.

Paragraphs V(b) of the SOP and IV(C)(1) and V(C)(1) of the National Plan (attached at Appendix 4) may be the source of misunderstanding or misconstruing the form and function of the JTRB. As the previous discussion implies, the JTRB has been interpreted as a "court of last resort" for resolution of a wide range of non-Section 706 telecommunication-related issues. Its role as an operational entity ascribed by the SOP and National Plan implies that the JTRB has a "real-time" telecommunications management role which at best is a derivative role from a more complex process involved with policy, regulatory, and legal issues surrounding telecommunications management during emergencies.

Changes in the state of emergency management techniques available to the Federal Government (e.g., the creation of the NCC) minimize the need for the derivative "real time" role of the JTRB. The NCC and the new Telecommunications Service Priority (TSP) System will provide a mechanism and authority for resolving all but the most extreme emergency situations when, as an operational body, the JTRB would function, per Paragraphs V(b) of the SOP and IV(C)(1) and V(C)(1) of the National Plan, to resolve claimancy issues.⁹

Thus, pertinent Federal authorities and supporting documentation recognize that the JTRB's role is essentially the "court of last appeal" for providing high-level policy guidance and recommendations to the Director, OSTP, but promulgated procedures emphasize "real-time" decision roles for the JTRB as a body. Related Federal programs demonstrate that there is already a Federal infrastructure in place for managing issues associated with emergency telecommunications in all but the most contrived situations.

4.0 CONCLUSIONS AND RECOMMENDATIONS

1. There is policy precedent for an active Federal Government role in telecommunications management, particularly in emergencies and times of increased tensions. Such policy precedent recognizes the critical importance of uninterrupted communications service under all conditions and demonstrates a willingness on the part of the Federal Government to intervene in telecommunications industry policies, practices, and even operations, when deemed necessary.

2. The JTRB is the latest construct in a long sequence of events implementing the Federal Government's policy toward telecommunications (e.g., the Communications Act of 1934, Executive Orders 9089 and 10312 (invoking the war emergency powers), establishment of the NCS, E.O. 12046, E.O. 12472, establishment of the NCC, etc.). As stated in the JTRB SOP, the Board was established to assist the Director, OSTP, in the exercise of his non-wartime emergency telecommunication functions assigned by E.O. 12472 and was intended to provide a cohesive process for ensuring the provision of necessary telecommunications information and advice to the EOP, and ultimately the President, as well as to facilitate concerted timely decisionmaking and execution of assigned emergency responsibilities by individual Federal entities.

3. The focus of the JTRB is that of an "authority of last resort" (i.e., "court of last appeal") on a number of telecommunication-related management issues. Based on existing telecommunications emergency management authorities, their interpretation by key Federal entities (e.g., the Director, OSTP) and the position of the JTRB in the scheme of Federal telecommunications emergency management, the JTRB was intended to resolve high-priority policy issues that have gone up through several levels of authority that have been unable to resolve them. It was also envisioned as bringing together those telecommunication policymakers jointly having the information and the decision making capability to determine when the President should be advised to invoke his Section 706 war emergency powers. In essence, the thrust of the JTRB should be viewed as an entity created to bring together those Federal policymakers with telecommunications-related regulatory, enforcement, procurement, etc., powers which, combined, could uniquely affect telecommunications during emergencies short of, or leading up to, invocation of the Section 706 war emergency powers.

4. Too much emphasis has been placed on the JTRB's operational role vice its other missions. For example, the operational role ascribed by the SOP implies that the JTRB has a "real time" telecommunications management role which at best is a derivative role from a more complex process involved with policy, regulatory, and legal issues surrounding telecommunications emergency management. While certain claimancy disputes may well be within the purview of the JTRB, the Board could examine setting out contingency plans for dispute resolution (e.g., for prioritization); such plans could lessen the need for JTRB adjudication in such instances. Also, areas in which the JTRB would likely play a meaningful high-level role which, to date, have not been fully addressed, should be examined; for example, the resolution of spectrum allocation issues under emergency circumstances.

5. JTRB exercise efforts have not been futile, but have served to surface a number of issues which should be addressed. It would be useful for the JTRB to engage in a series of meetings on its policymaking role as opposed to exercising a scenario(s) which might lead into a more operational/technical role. A good candidate area for such meetings would be the events leading up to an invocation of the Section 706 emergency war powers, particularly in light of the fact that there are no documents in place concerning the role of the JTRB during the transition to a Section 706 situation. Such meetings would focus not so much on the specific decision of whether to recommend to the President that they be invoked (as was the focus of Exercise POWER SWEEP¹⁰), but rather on the determination and notification of the sequence of events necessary to implement Section 706, including:

- . The decisionmaking process with regard to industry mobilization (e.g., the selective nationalization of industry concerns, timing of mobilization of communications common carriers, equipment manufacturers and vendors, etc.)
- . The tailoring of applicable draft Executive Orders (see the Presidential Emergency Action Directives) to fit the immediate situation at hand
- . The assessment of the economic impact on the telecommunications industry associated with nationalization (i.e., while Section 706(e) provides for "just compensation," it does not specify a structure or mechanisms for sending and paying for bills or the roles of Federal entities which may be involved
- . The question of dealing with the lost revenues and potential contractual liabilities of subcontractors to,

or customers of, the affected industry concerns

- . Determining the actual process of nationalization (such as placing Federal officials in key industry positions and developing mechanisms for the commissioning of selected industry officials to serve within the Federal Government; e.g., through the NCS organizational structure).

6. Insofar as it may be useful to exercise again the operational role, a scenario which stresses the JTRB's role in resolving high-level issues should be used. Areas which could be exercised include scenarios involving issues associated with spectrum allocation during an emergency. While this issue may not be a critical problem today, this could be a major issue in the future as frequency availability becomes more limited in light of the increase of mobile phones, the advent of very small aperture terminal satellite (VSAT) antennas and land mobile services, etc. The Federal Government's ability to respond to emergencies such as an earthquake or flood in light of competing frequency demands could be the theme of such an exercise.

7. A new high-level policy role which could appropriately be ascribed to the JTRB is that of being the coordinator for telecommunications-related activities within the newly created National System for Emergency Coordination (NSEC), which is a mechanism for ensuring that the Federal Government provides timely, effective, and coordinated assistance in extreme catastrophic technological, natural or other domestic disasters of national significance.

With regard to operational responsibilities therein, it is envisioned that to the extent possible existing Federal interagency functional groups will, in their respective areas of cognizance, play major roles in, inter alia, identifying and prioritizing contingencies for which emergency plans are needed, and providing external liaison and situation assessments. Also, OSTP and NCS are named as the lead Federal entities for telecommunications within the NSEC, based on their recognized leadership roles, resources, inherent authorities and expertise. The JTRB would be an appropriate functional group for telecommunications within the NSEC, with the NCS and NCC -- as subordinate elements of the JTRB -- providing support and coordination of operations as directed by the JTRB.

8. In summary, it is recommended that a sequence of JTRB meetings (vice operational exercises) should be considered that would take as agendas (with the intent of subsequently establishing working groups and/or task forces, as appropriate, to follow up on the results) policy matters such as those discussed above, to wit:

- . Determination of the sequence of events necessary to implement Section 706, and examination of issues associated therewith

- . Examination of the JTRB's role and responsibilities within the National System for Emergency Coordination
- . Examination of the practicability of developing contingency plans for prioritization disputes and other documents which would assist in the execution of the JTRB's roles and functions
- . Education of JTRB members and other affected Federal entities of the JTRB's roles and functions
- . Consideration of rewriting current documents dealing with NSEP telecommunication operational procedures (in particular, the role of the JTRB), as necessary, to clarify JTRB role(s) therein. Specifically, in light of changes that have occurred since the JTRB SOP was developed -- to wit, establishment of the NCC as an operational body, creation of the TSP System, and, most recently, establishment of the NSEC -- the JTRB should examine rewriting its SOP, particularly Paragraph V which delineates its functions, to reflect those changes and their impact on the JTRB's role(s).

- 1 47 USC Sec. 151 et seq. A history of Section 706 and its invocation appears at Appendix 2A.
- 2 Exec. Ord. No. 12046, Relating to the Transfer of Telecommunications Functions, March 27, 1978, 43 Fed Reg 13349, as amended.
- 3 See discussion at Appendix 2C.
- 4 Exec. Ord. No. 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984, 49 Fed Reg 13471.
- 5 A list of JTRB membership is provided at Appendix 3.
- 6 Minutes of JTRB Meeting of July 24, 1985, as issued by JTRB Executive Secretary Maurice Roesch, III.
- 7 "Interim Standard Operating Procedures for Joint Telecommunications Resources Board."
- 8 "National Plan for Telecommunications Support in Non-Wartime Emergencies," September 1987. Prepared by OMNCS in coordination with the JTRB. The National Plan is the formal U.S. Government plan applicable to all Federal Executive entities in accordance with Exec. Ord. 12472 and other national policy direction.
- 9 See Appendix 5 for description of the National Coordinating Center and the TSP System.
- 10 A discussion of JTRB meetings and exercises appears at Appendix 6.

BIBLIOGRAPHY

Communications Act of 1934, as amended, 47 U.S.C. Sec. 151, et seq.

Disaster Relief Act of 1974, May 22, 1974, P.L. 93-288.

Exec. Ord. No. 12046, "Relating to the Transfer of Telecommunications Functions," March 27, 1978, 43 Fed. Reg. 13349, as amended.

Exec. Ord. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 Fed. Reg. 13471.

FCC Notice of Proposed Rulemaking "National Security Emergency Preparedness Telecommunications Service Priority System," General Docket No. 87-505, December 2, 1987.

"Interim Standard Operating Procedures for Joint Telecommunications Resources Board".

Memorandum of Understanding Between the National Security Council, the Office of Science and Technology Policy, and the Executive Agent, National Communications System, (signed, respectively, on June 5, 1978; May 30, 1978; and May 22, 1978).

Minutes of JTRB Meeting of July 24, 1985, as issued by JTRB Executive Secretary Maurice A. Roesch, III.

National Emergencies Act of 1975, 50 U.S.C. Sec. 1601, et seq.

"National Plan for Telecommunications Support in Non-Wartime Emergencies," September, 1987. Prepared by OMNCS in coordination with the JTRB.

OSTP Memorandum on "Joint Telecommunications Resources Board, July 30, 1984.

White House Memorandum on "National Security and Emergency Preparedness Telecommunications Management and Coordination Responsibilities," July 5, 1978.

APPENDIX 1: METHODOLOGY

This study was conducted primarily through the following activities:

- . Examination of pertinent documentation concerning the background, purpose, authorities, applicability, and scope of the JTRB
- . Examination of pertinent documentation concerning other Federal entities' related or concurrent emergency telecommunication functions;
- . Analysis of JTRB activities to date
- . Identification of initiatives which could potentially impact or modify the JTRB's role
- . Identification of specific examples of issues or situations in which JTRB participation would be appropriate.

APPENDIX 2: BACKGROUND

A. SECTION 706 OF THE COMMUNICATIONS ACT

The World War I experience caused Congress to recognize a need for Presidential control of commercial and private telecommunication systems and facilities during wartime to "... insure the continuous operation of electrical communicating systems, to guard the secrecy of war dispatches, and [to] prevent communications between public enemies..." Thus, Congress passed Public Resolution No. 38 which authorized such Presidential control (40 Stat 904, July 16, 1918).

By the 1930s it was apparent that a single regulatory body was needed to deal with the changing conditions of the communications field. Consequently, the responsibility for regulation of all interstate and international communications was finally consolidated by passage of the Communications Act of 1934, as amended, (47 U.S.C. Sec. 151 et seq.; hereinafter the Communications Act). The Communications Act created the Federal Communications Commission (FCC), and gave it broad authority and responsibility for regulation of interstate and foreign communications commerce by wire and radio for purposes of national defense and promoting safety of life and property. Section 706 of the Communications Act (47 U.S.C. Sec. 706; hereafter "Section 706") conveys authority to the President which is similar to that of the earlier Public Resolution No. 38. Upon invocation, the President's Section 706 war emergency powers may supersede the FCC's authority under the Communications Act.

Section 706 is a significant presidential tool, particularly since the Federal Government relies heavily upon commercial telecommunications (approximately 95 percent of the Federal Government's telecommunication services in the United States are provided by commercial carriers). In general, Section 706 war emergency powers allow the President to: direct priority for essential communications with any commercial or governmental carrier and to prevent obstruction of communications during war; suspend or amend rules/regulations, close stations and facilities; and authorize U.S. Government use and control of electromagnetic radiation with regard to (a) radio communications (during war, or Presidentially-declared threat of war, public peril, disaster or national emergency or a need to preserve the neutrality of the U.S.) and (b) wire communications (during war or threat of war).

Except for situations involving an existing state of war, the President must issue a proclamation that the applicable situation exists (e.g., threat of war, state of national emergency) and, in accordance with the National Emergencies Act of 1975, must transmit to Congress such proclamation, declaration or associated executive order as well as all

significant orders of the President and rules and regulations issued by executive agencies pursuant to such a Presidential proclamation, promptly and with appropriate confidentiality, before invoking any Section 706 war emergency powers. It should be noted that more than one Section 706 power may be exercised simultaneously, as long as the applicable conditions precedent for each power are satisfied.

To date, Section 706 has been invoked twice, but the war emergency powers have never actually been exercised. On March 6, 1942, President Franklin D. Roosevelt delegated the exercise of his war emergency powers to the Defense Communications Board (E.O. 9089); however, the Board never acted under the war emergency powers but merely served as an interface with an apparently cooperative telephone industry. During the Korean War, on December 10, 1951, President Harry S. Truman delegated limited authority to the FCC to minimize the use of radio stations which could aid enemy navigation (E.O. 10312); the FCC never exercised the war emergency powers, presumably because the war was limited to a foreign theatre and domestic assets were not directly implicated.

B. DIRECTOR, OSTP RESPONSIBILITIES UNDER E.O. 12046

Reorganization Plan No. 1 of 1970 (35 Fed. Reg. 6421, eff. April 20, 1970) created an Office of Telecommunications Policy (OTP) in the Executive Office of the President (EOP) to serve as the President's principal advisor on telecommunications policy, to help formulate policies and coordinate operations for the Federal Government's own communications systems, and to act as the EOP liaison with Congress and the FCC on telecommunications policy matters.

Executive Order 12046, Relating to the Transfer of Telecommunications Functions (43 Fed. Reg. 13349, March 27, 1978), which abolished the OTP and transferred its functions to other Federal entities, assigned to the Director of the Office of Science and Technology Policy (OSTP) the responsibility for preparing to direct the exercise of the President's Section 706 war emergency powers. (Additionally E.O. 12046, inter alia, gives the National Security Council (NSC) the responsibility to exercise appropriate policy direction for exercise of the President's Section 706 war emergency powers, assigns the responsibility for assignment of radio frequencies for the Federal Government to the Secretary of Commerce, and assigns the Office of Management and Budget (OMB) responsibility for final disposition of appeals from frequency assignments by the Secretary of Commerce.)

The responsibilities of the Director, OSTP, contained in E.O. 12046 were delineated in a memorandum of understanding (MOU) between the NSC, OSTP and the Executive Agent, National Communications System (EA, NCS) (signed, respectively, on June 5, 1978; May 30, 1978; and May 22, 1978) and in a White House memorandum from Zbigniew Brzezinski, then National Security Advisor, and Frank Press, then Science and Technology Advisor (White House Memorandum on "National Security and Emergency Preparedness Telecommunications Management and Coordination Responsibilities," July 5, 1978). These documents note that the Director, OSTP, should prepare to assume Federal Emergency Plan D postattack authorities and responsibilities with respect to telecommunication facilities and services. This includes priorities and allocations authority with regard to all telecommunication functions and services subject to the jurisdiction of the United States, requisition authority for supplies, equipment, and property and/or condemnation or use over private property concerned with telecommunications; emergency contracting authority with regard to provision of telecommunication services; and authority to restore, repair, expand or construct essential telecommunications facilities.

These documents also provide that the Director, OSTP, shall assume Annex C-XI (telecommunications), Federal Emergency Plan D, responsibilities, including: to administer telecommunication resources, to administer Section 706 war emergency authority, to direct the FCC and EA, NCS, to ensure the Nation's

telecommunication facilities and services are available and responsive in a war situation, to issue Telecommunications Orders (TELORDERS) as required to implement emergency management of telecommunication resources, and to arrange for the relocation to the Federal Emergency Preparedness Agency Special Facility for the purpose of performing these Annex C-XI functions.

C. REQUIREMENT FOR E.O. 12472

Pursuant to E.O. 12046, under conditions in which the President's Section 706 war emergency powers are involved, the Director, OSTP, is the clearly defined single authority for telecommunications resource management who is assigned the responsibility to serve as the authority for emergency telecommunications information and advice to the President. However, even though the Director, Federal Emergency Management Agency (FEMA), had been implementing an Integrated Emergency Management System concept to provide a consistent management structure across the continuum of emergency situations, until recently there was no such identified authority which could provide Executive Office attention and direction in a pre- or non-Section 706 environment requiring Federal response (e.g., Presidentially-declared emergencies, FEMA-declared extraordinary situations, and critical situations which have the potential to lead up to an invocation of the Section 706 war emergency powers). Several factors present or occurring in the few years following the promulgation of E.O. 12046 in 1978 underscore the importance of this issue:

- . existence of multiple authorizing statutes and multiple Federal entities responsible for telecommunications and/or emergency functions (see, e.g., E.O. 12046, E.O. 11490)
- . Federal communications responses to emergency situations perceived as disjointed and uncoordinated (e.g., Three Mile Island incident)
- . An FCC which, through statutory construction of the Communications Act, arguably had nonwartime authority to make decisions regarding emergency telecommunications
- . loss of an integrated Bell System structure which could assist in providing a timely Federal response to emergency situations.

APPENDIX 3: JTRB MEMBERSHIP

The membership of the JTRB is as follows:

- . Director, OSTP (Chairman)
- . Department of Defense by the Assistant Secretary for Command, Control, Communications and Intelligence (C3I) (based on its large communication networks in the United States, its role as EA, NCS, its role as provider of military communications assistance in emergencies, and its related procurement authority pursuant to the Defense Production Act)
- . Department of Commerce by the Assistant Secretary for Communications and Information (based on its responsibilities for assignment of radio frequencies for the Federal Government, coordination of Executive Branch telecommunication activities, and for assistance in the formulation of policies and standards for such activities)
- . General Services Administration by the Commissioner for Information Resources Management Service (based on its E.O. 11490 role to prepare national emergency plans and develop preparedness programs including telecommunications and to operate telecommunication facilities to meet essential Federal requirements within the NCS framework and on its authority for procurement of telecommunication equipment and services)
- . Federal Emergency Management Agency by the Assistant Associate Director for Information Resources Management (based primarily on its responsibilities to establish civil defense communications and its authority to establish temporary emergency communication systems)
- . Federal Communications Commission by the Defense Commissioner (based on its responsibility for regulation of interstate and foreign communications and related enforcement authority and its role in development of policies, plans, and procedures in consonance with national telecommunication plans and policies)
- . National Communications System by the Manager, NCS, (based on its broad NSEP telecommunications responsibilities under E.O. 12472 - e.g., to develop

policy, plans, and procedures for use of telecommunication resources, to establish rules and procedures for priorities and precedence and for control of procurements of telecommunication services during a national emergency - and as representative of those NCS member organizations not otherwise represented on the JTRB).

APPENDIX 4: JTRB ROLES AND FUNCTIONS AS DEFINED IN
PARAGRAPH V OF THE JTRB SOP AND PARAGRAPHS
IV(C)(1) AND V(C)(1) OF THE NATIONAL PLAN

Paragraph V of the SOP defines the JTRB's functions as the following:

"a. The JTRB will, as a minimum, perform the following general functions:

(1) as requested, review information submitted to the Chairman, JTRB and the CMC [White House Crisis Management Center], evaluate response and support requirements, and provide recommendations to appropriate Executive Office officials;

(2) facilitate the concerted exercise of non-wartime emergency telecommunications authorities and responsibilities by individual Federal entities;

(3) advise and assist in the resolution of competing demands for telecommunications services, and any necessary service reprioritizations resulting from specific non-wartime emergency situations; and

(4) meet at the call of the Chairman, JTRB, during non-emergency situations to support major Federal exercises or to consider non-wartime emergency telecommunications policies and procedures."

Paragraph V(b) of the SOP describes the information exchange process for execution of the general JTRB functions. In general, it provides that the National Communications System/Defense Communications Agency Operations Center (NCS/DCAOC), the National Coordinating Center (NCC), and the FEMA Emergency Information Coordinating Center (EICC) will be the primary focuses for reports on any of the continuum of telecommunications emergency events described in the SOP. All Federal agency telecommunications management organizations, the NCC and the FEMA EICC are to forward information regarding potential or actual telecommunication emergency situations to the NCS/DCAOC. Upon receipt of such information, the Manager, NCS, and the Director, FEMA (where appropriate in consultation with each other, the NCC, and the FEMA EICC), will evaluate situations in terms of whether they (a) pose significant threats to telecommunication facilities or services, or (b) create a need for extraordinary telecommunications support, in order to determine whether the telecommunication implications are significant enough to warrant concurrent notification of the Chairman, JTRB, and the CMC. As appropriate, the Chairman will notify members of the Board.

The National Plan describes the JTRB's roles and responsibilities with regard to emergency or major disaster or extraordinary situations, and notes, further, that "[i]n the execution of [these roles], the JTRB will be supported by the NCS organizational structure utilizing the resources of the NCS/DCAOC, the NCC, the FEMA EICC, and other Federal agency operations centers as necessary."

Sections IV(C)(1) and V(C)(1) of the National Plan (Roles and Responsibilities, Deployment Phase, "Emergency or Major Disaster" and "Extraordinary Situations," respectively) are apparently modeled after the language contained in the SOP, and state that "[t]he JTRB is responsible for:

- a. Reviewing information submitted to the Chairman, JTRB, to evaluate response and support requirements, and to provide recommendations to the proper officials of the Executive Office of the President.
- b. Facilitating the concerted exercise of non-wartime emergency telecommunication authorities and responsibilities by individual Federal entities.
- c. Advising and assisting the Chairman, JTRB, in the resolution of competing demands for telecommunication services, and any necessary service priorities, resulting from non-wartime emergency situations."

APPENDIX 5: OTHER FEDERAL GOVERNMENT
TELECOMMUNICATIONS MANAGEMENT STRUCTURES

A. NATIONAL COORDINATING CENTER

Following the divestiture of AT&T, industry and Government, through a series of meetings held under the auspices of the National Security Telecommunications Advisory Committee (NSTAC), identified the need for an authoritative entity to coordinate initiation and restoration of NSEP telecommunications services -- "end to end." This requirement led to the development of the concept of a National Coordinating Mechanism (NCM) and, eventually to the creation of an industry and Government-staffed NCC as the operational arm of the NCM in January, 1984. The mission of the NCC is to assist in the initiation, coordination, restoration, and reconstitution of NSEP telecommunication services/facilities.

The NCC is authorized to support responses to a broad spectrum of emergency or crisis situations:

- . After invocation of Section 706 -- the NCC carries out directives consistent with Federal Government authority.
- . During a Presidentially-declared disaster or emergency (pursuant to the Disaster Relief Act) short of Section 706 -- the NCC coordinates consistent with Federal Government authority.
- . During any emergency or crisis short of Presidential declaration -- the NCC coordinates consistent with Federal Government authority.

Only after invocation of Section 706 will the Executive Branch direct actions on the part of the industry representatives to respond to Federal NSEP requirements. In all other situations, the NCS will consult with the industry representatives to develop response plans and to coordinate responses to NSEP telecommunication service requirements. The NCC becomes actively involved when one of the following operational situations occurs:

- . Telecommunications industry representatives request assistance or coordination in NSEP situations from the NCC.
- . Affected Federal Government organizations declare that existing procedures will not result in sufficient NSEP service.

- . The scope of the NSEP service or support requirements involves coordination across several states, regions, companies or organizations.

Thus, the NCC provides an operational body for the management of provisioning or restoring NSEP telecommunication services under a broad spectrum of emergency or crisis situations (in such situations, however, the extent of its authority is governed by the nature of the emergency and specific legal conditions as delineated above). Only in instances where it cannot resolve a particular policy issue does there become a potential situation for JTRB involvement.

B. TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM

With regard to the prioritization or implementation of provisioning or restoring NSEP telecommunication services, there are Federal procedures which obviate the need for even NCC decisionmaking in many instances by providing an "automatic" mechanism for implementation of detailed procedures and for resolution of technical or operational issues that might be associated therewith.

The FCC has issued a notice of proposed rulemaking (NPRM) regarding the "NSEP Telecommunications Service Priority (TSP) System." When adopted, the TSP System will provide an important and comprehensive mechanism by which the NCS can assist the President, NSC and Director, OSTP, in the exercise of their respective NSEP responsibilities and in coordination of the planning for and provisioning of Federal Government NSEP telecommunications under all circumstances including emergency, attack or war.

The TSP System will authorize priority treatment to certain domestic telecommunication services for which provisioning or restoration priority levels are requested, assigned and approved in accordance with TSP policies and procedures. Sections 1, 4(i), and 201 through 205 of the Communications Act of 1934, as amended, grant to the FCC the authority over the assignment and approval of priorities for provisioning and restoration of carrier-provided telecommunication services. Under Section 706, this authority may be superseded and expanded to include privately owned telecommunication services.

The TSP System, which is expected to be promulgated in mid-1988 by the FCC, will replace the existing Restoration Priority (RP) system, which only prioritizes restoration of critical carrier provided intercity NSEP circuits. Unlike the RP system, the TSP System will cover a broad range of domestic telecommunication services (including portions of U.S. international telecommunication services provided by U.S. service vendors) for which provisioning or restoration levels are approved, to wit: commercially provided private and public switched services; services provided by Government/private owned/operated systems and facilities which are interconnected to commercially provided services assigned a priority level pursuant to the TSP System; and at the discretion of and upon special arrangements by the TSP System users involved, to Government or privately owned services not connected to commercially provided services assigned a TSP priority level and to foreign portions of U.S. international services.

More importantly, perhaps, the new TSP System will authorize

interruption of lower priority or nonpriority services for the purpose of provisioning or restoring the services in the order of priority level assignments, if preemption is required to provide a service assigned provisioning priority level "E" (i.e., emergency service) or restore a service assigned a restoration priority level from "1" to "5" (i.e., essential NSEP service). This authority -- and thus ability -- to resort to preemption of non-Federal Government services when necessary to meet critical NSEP telecommunication requirements gives Federal emergency telecommunication managers a new and important tool, enhancing greatly the ability to resolve claimancy issues involving resource allocation.

In this regard, to facilitate compliance with and implementation of the TSP System, a comprehensive set of guidelines was developed and incorporated in the NPRM. These guidelines establish policies, procedures, categories and criteria for assigning, revising, revalidating, or revoking priority levels and for denying requests for priority actions, and assign responsibilities to the FCC, the EOP, Federal organizations, and service users and providers. Of note are the responsibilities assigned to the EOP, including, inter alia, the following:

- . Act as final approval authority for priority actions or denials of requests for priority actions, adjudicating any disputes, during exercise of the Section 706 war emergency powers.
- . Until the exercise of the President's war emergency powers, administer the NSEP TSP System, including issuing regulations and establishing and assisting a TSP System Oversight Committee to identify and review any problems developing in the system and recommend actions to correct them or prevent recurrence.

Thus, while overall the TSP System eliminates the need for immediate decisions from (with regard to implementation procedures and technical issues) the players involved, and, as such, in many instances may likely minimize the need for actual resolution of competing telecommunication demands by Federal telecommunication emergency managers, there is still a strong administrative role for the EOP, particularly the Director, OSTP. In this regard, the role of the JTRB within the TSP System management structure should be clarified; e.g., as an advisory body to, or member of, the TSP System Oversight Committee, or as the adjudicating body of disputes in a non-Section 706 emergency environment.

APPENDIX 6: JTRB MEETINGS AND EXERCISES

To date, there have been three JTRB meetings, and the Board has participated in two exercises. The meetings, held in July 1985, August 1986 and July 1987, have basically consisted of information briefings on matters in which the Director, OSTP, and/or the JTRB have either approval authority (e.g., the SOP and National Plan) or significant roles (e.g., emergency plan for radio spectrum).

During the inaugural JTRB meeting, the Manager, NCS, suggested that a scenario be generated to help determine the limits of JTRB responsibility and that the JTRB could devote some time to exercising the scenario to help establish a consensus on the JTRB's role. While agreeing with that suggestion, the Director, OSTP, reiterated his position that only high-level matters requiring decisions should be addressed to the JTRB. The issue of exercising the JTRB was also raised at the last JTRB meeting. In the context of reviewing the draft JTRB Response and Coordination Procedures, members of the Board expressed concern that the Board not get tied up with "normal" actions and "sink into an operational mode," and the Director, OSTP, commented that a common understanding of what the JTRB does is definitely needed. It was subsequently noted that the first (and only) exercise of the JTRB had occurred during Exercise POWER SWEEP (held in November 1986), and the JTRB accepted an OMNCS proposal that the Board participate in the REX ALPHA/PROUD SCOUT exercise scheduled for November 1987.

Exercise POWER SWEEP dealt with the use of the Presidential Section 706 war emergency powers over national telecommunication resources, in particular the JTRB role in the decision making process leading up to a decision to recommend to the President that his Section 706 war emergency powers be invoked. It appears that most of the meeting comprising Exercise POWER SWEEP consisted of an OMNCS briefing to representatives of JTRB member organizations on the contents of a draft Major Emergency Action Paper (MEAP) on the use of the Presidential war emergency powers over national telecommunication resources and on the JTRB's role in the decision process with regard to whether -- and when -- a recommendation should be provided to the President to use part or all of the war emergency powers. The meeting was chaired by the Deputy Director, OSTP, and JTRB Principals were not present. Only a small part of the meeting was devoted to a discussion of whether to recommend to the President that the war emergency powers be invoked in a specific situation.

During the November 1987 Exercise REX ALPHA 88/PROUD SCOUT 88, representatives from each of the Board member organizations were briefed on background information pertaining to a scenario that was developed by the NCS/NCC for JTRB participation in the

exercise. They were told that the scenario would only be played by the JTRB and to brief and prepare their JTRB Principals for a special exercise meeting that was called on November 18, 1987, by the Director, OSTP.

When the exercise was convened, all members were provided with a Decision Package which outlined a major telecommunications incident that had occurred the previous night. The Decision Package described a major (simulated) telecommunications outage at a key telecommunications switching facility that had been caused by a train derailment. Sabotage was suspected to have been the cause of the incident.

The affected telecommunications facility housed several vital telephone switching assets which were severely disrupted, and a significant portion of its local dial and long-distance switching service was damaged.

An initial damage assessment of the incident was provided in the package, at the outset of the two-hour meeting, as well as an assessment of the overall effects of the outage and affected users. This information showed the restoration efforts that had been initiated by the telecommunications industry.

Following presentation of this assessment, the JTRB was presented with several major issues and options for deliberation, and a discourse among the Board members on those issues ensued.

After the exercise meeting, members of the OMNCS staff met with each meeting participant to get their impressions on the meeting. There was mixed opinion about that meeting, ranging from the viewpoint that the scenario should have caused more apparent conflict among departments and agencies to the opinion that it was appropriate for the JTRB but that future exercises should concentrate on policy issues and not operational problems, and on the need for the JTRB to convene for such an exercise.

Presumably, Exercise POWER SWEEP was not an "exercise" as much as an information briefing to representatives of JTRB member organizations on the contents of a draft Major Emergency Action Paper (MEAP) on the use of the Presidential war emergency powers over national telecommunication resources and on the JTRB's role in the decision process with regard to whether -- and when -- a recommendation should be provided to the President to use part or all of the war emergency powers. In light thereof, the mixed impressions encountered with regard to the Exercise REX ALPHA/PROUD SCOUT are not atypical of those associated with a first effort and should not be the basis for generalized decisions regarding future JTRB participation in exercises.

APPENDIX 7: NATIONAL SYSTEM FOR EMERGENCY COORDINATION

On January 19, 1988, a White House memorandum was issued to the Domestic Policy Council informing members that the President has approved a National System for Emergency Coordination (NSEC) and also outlining the system's purpose, principles, activation and operational responsibilities.

As stated in that memorandum, the NSEC is "a mechanism for ensuring that the Federal Government provides timely, effective, and coordinated assistance to State and local governments in extreme catastrophic technological, natural or other domestic disasters of national significance. Responsibilities currently assigned to Federal departments and agencies by statute or other authority, and existing management systems and capabilities are an integral part of this response system and will be used when possible."

With regard to system activation, when an extreme emergency occurs, the Executive Office of the President (EOP) official responsible for Cabinet affairs will consult with the National Security Council (NSC) and appropriate Executive Branch departments and agencies to develop specific action plans for consideration by the President, the Cabinet and other officials as necessary. Only the President may activate the system.

As to operational responsibilities within the NSEC, Federal departments and agencies are to respond to potential crises in their respective areas of cognizance. With regard to Federal interagency functional groups, the memorandum states that Federal interagency functional groups will be established to support and coordinate relief operations in extreme emergencies, consistent with those currently called for in existing emergency plans; however, "to the extent possible under existing authorities, interagency functional groups will also, in their respective areas of cognizance: conduct risk assessments; identify and prioritize contingencies for which emergency plans are needed; provide external liaison and situation assessments; and test Federal emergency response structures and plans." Thus, the use of existing interagency bodies such as the JTRB is already envisioned as an integral component of the NSEC.

As noted in the memorandum, lead agencies have been designated for each functional group on the basis of recognized leadership roles, resources, inherent authorities, and/or relevant expertise. The designated lead for telecommunications is the OSTP/NCS. This further implies a major role for the JTRB, which supports the Director, OSTP, and is, in turn, supported by the NCS.

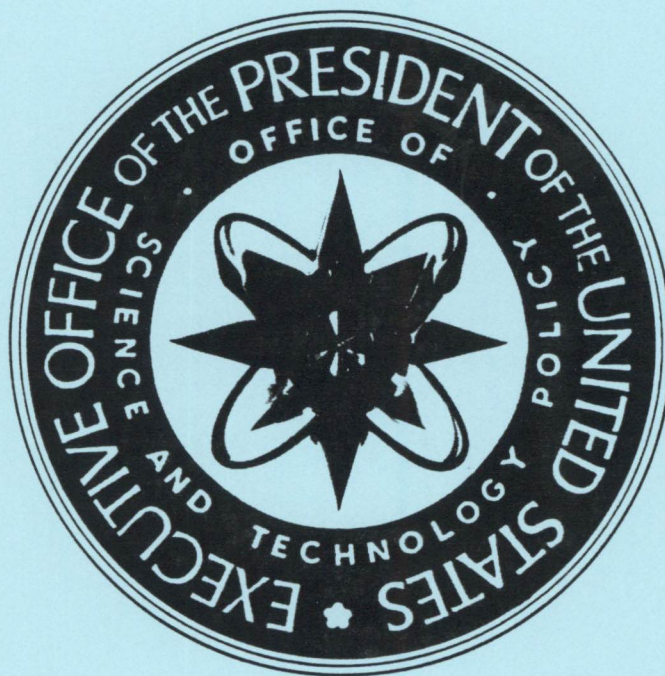
Under the NSEC concept, the President may designate a National Coordinator as his representative to coordinate Federal support operations during extreme emergencies. "The National Coordinator would ordinarily be a senior official of a

department or agency having assigned responsibilities for the following specified types of emergencies: . . .

Telecommunications . . .OSTP/NCS." The memorandum further states that the National Coordinator would determine which interagency functional groups should be activated. It would be functionally practicable and in keeping with related policy guidance for the Director, OSTP -- as Chairman, JTRB -- to be the National Coordinator for telecommunications emergencies and for the JTRB to be activated as a matter of procedure, when the NSEC is activated in response to a telecommunications emergency, to provide policy guidance and coordination.

**JOINT TELECOMMUNICATIONS
RESOURCES BOARD (JTRB)**

**STANDARD OPERATING
PROCEDURES**



JANUARY 18, 1989

**PREPARED BY
THE OFFICE OF THE MANAGER
NATIONAL COMMUNICATIONS SYSTEM
8TH & SOUTH COURTHOUSE ROAD
ARLINGTON, VA 20305-2010**

STANDARD OPERATING PROCEDURES
FOR
JOINT TELECOMMUNICATIONS RESOURCES BOARD

I. Background

a. By Executive Order No. 12046, Relating to the Transfer of Telecommunications Functions, March 27, 1978, the Director of the Office of Science and Technology Policy (OSTP) was assigned the responsibility for preparing to direct the exercise of the President's war power functions contained in Section 606 of the Communications Act of 1934, as amended. Existing Federal emergency plans (e.g., Federal Emergency Plan D, Annex C-XI) have also recognized OSTP's responsibility and designated the Director, OSTP, as the Nation's telecommunications resource manager under conditions of wartime emergency. Executive Order 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, reaffirmed that the Director, OSTP, is responsible for directing the exercise of the Section 606 Presidential war powers. Under conditions in which the President's war emergency powers (formerly Section 606 and now Section 706) have been invoked, there is a visible single authority for telecommunications resource management that is clearly assigned the responsibility for serving as the authoritative channel of emergency telecommunications information and advice to the President.

b. There are, however, a range of non-wartime situations that do not justify the exercise of the President's war powers under Section 706 of the Communications Act of 1934 or the implementation of Federal Emergency Plan D, but yet require response by the Federal Government and, therefore, Executive Office of the President attention and direction. Such situations include:

- (1) Presidentially-declared emergencies and major disasters;
- (2) Federal Emergency Management Agency (FEMA)-declared extraordinary situations; and
- (3) Critical situations which have the potential for developing into emergencies/major disasters, extraordinary situations, or national emergencies.

FEMA has established an Integrated Emergency Management System concept to provide a consistent management structure across the continuum of emergency situations.

c. Executive Order No. 12472, Section 2(b) assigns specific non-wartime emergency telecommunication functions to the

National Security Council and the Director of the Office of Science and Technology Policy as follows:

"(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, 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 telecommunication 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 telecommunication 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."

d. A White House Memorandum, dated January 19, 1988, establishes Presidential approval of a National System for Emergency Coordination (NSEC). Its purpose is to provide timely, effective, and coordinated assistance to State and local governments in extreme catastrophic technological, natural, or other domestic emergencies of national significance. When the NSEC is activated, the Federal Government's response to major domestic crises will be consistent with current emergency plans, and will use existing domestic and national security crisis information and management systems.

e. The NSEC establishes functional groups at the national level to support and coordinate relief operations, assess problems, propose solutions and facilitate resolution of

specific emergency functional needs. A Telecommunications Functional Group is one of the interagency functional groups which could be activated, depending on the nature of the crisis. The NSEC assigns responsibility for the Telecommunications Functional Group to the Office of Science and Technology Policy/National Communications System.

II. Purpose

a. The Joint Telecommunications Resources Board is hereby established to assist the Director, OSTP, in the exercise of those non-wartime emergency telecommunication functions assigned by E.O. 12472 and to support the OSTP/NCS as the Telecommunications Functional Group within the NSEC as prescribed by White House Memorandum dated January 19, 1988. The Board will serve as the deliberative and recommending body for the Executive Office of the President, and ultimately the President, thereby providing a cohesive process for ensuring the provision of necessary telecommunications information and advice to them, and facilitating concerted timely decisionmaking and execution of assigned emergency responsibilities by individual Federal entities under the overall guidance of the President and the Director, OSTP.

b. As required, the JTRB may also be convened to act in support of major Federal exercises or to consider non-wartime emergency telecommunication policies and procedures.

III. References

a. Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended.

b. Executive Order 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984 (49 Fed. Reg. 13471).

c. White House Memorandum, National System for Emergency Coordination, January 19, 1988 (the NSEC Charter).

IV. Applicability and Scope of Responsibility

a. The provisions of this procedure are applicable to all Federal entities with non-wartime emergency telecommunications management responsibilities.

b. The JTRB's basic role is to monitor potential or actual telecommunications emergency situations that pose significant threats to telecommunication facilities or services, and situations that may create the need for extraordinary telecommunication support, and to function as the Telecommunications Functional Group when the NSEC is activated.

Extraordinary telecommunications support is defined as being those requirements for services or responses that are beyond the normal procedures and/or capabilities of individual commercial carriers or government agencies. The type of situations that might result in activation of the JTRB include:

- (1) telecommunications damage or congestion as a result of major disasters (e.g., hurricanes, tornadoes, floods, earthquakes, earth slides, blizzards, tidal waves, etc.) or critical situations (e.g., fires, explosions, epidemics, civil disturbances, escaping lethal gases, power blackouts, etc.);
- (2) major failures or disruptions of overseas transmission systems (ocean cables, satellites, earth stations) or the interruption or drastic reduction in telecommunication services to foreign countries beset by major disasters, emergencies, or internal problems;
- (3) regional or national situations where unusual events or reports create public concern or confusion to the extent that abnormal telecommunications traffic patterns or congestion develop for an extended period;
- (4) cases of known, suspected, or attempted sabotage of major telecommunication installations or facilities, or major industry work stoppages with the potential to significantly affect telecommunication operations; and
- (5) significant curtailments in service on government telecommunication networks or facilities due to technical or operational problems, traffic situations, etc.
- (6) extreme catastrophic technological, natural, or other domestic emergencies of national significance in response to which the President has activated the NSEC.

c. In the execution of its basic role, the JTRB will be supported by the National Communications System organizational structure utilizing the resources of the National Communications System (NCS)/Defense Communications Agency (DCA) Operations Center (OC), the National Coordinating Center (NCC), the Federal Emergency Management Agency's National Emergency Coordination Center/National Network Operations Center (NECC/NNOC), and other Federal agency operation centers as necessary.

d. When functioning as the NSEC Telecommunications Functional Group, the JTRB may also be supported by Regional Functional Groups authorized under the NSEC charter. It is envisioned that the regional functional groups for telecommunications will be organized and function in accordance with the procedures established in the National Plan for Telecommunications Support in Non-Wartime Emergencies.

V. Functions

a. The JTRB will, as a minimum, perform the following general functions:

- (1) as requested, review information submitted to the Chairman, JTRB, and the White House Situation Support Staff (WHSSS), evaluate response and support requirements, and provide recommendations to appropriate Executive Office officials;
- (2) facilitate the concerted exercise of non-wartime emergency telecommunication authorities and responsibilities by individual Federal entities;
- (3) advise and assist in the resolution of competing demands for telecommunication services, and any necessary service reprioritizations resulting from specific non-wartime emergency situations including competing government and private sector requirements; and
- (4) meet at the call of the Chairman, JTRB, during non-emergency situations to support major Federal exercises or to consider non-wartime emergency telecommunication policies and procedures;
- (5) as the Interagency Functional Group for Telecommunications within the NSEC, evaluate and make recommendations regarding risk assessments, contingency and emergency planning priorities, external liaison and situation assessments, information needs and required actions.

b. To execute these general functions, to support the operations of the WHSSS, and to provide the necessary information to the president, Vice-President, National Security Council, and Office of Science and Technology Policy, the JTRB and those Federal entities with non-wartime emergency telecommunications management responsibilities shall also implement the following information exchange process:

(1) General

(a) The NCS/DCAOC, the NCC, the FCC, and the FEMA NECC/NNOC will be the primary focuses for reports on any of the continuum of telecommunications emergency events described herein. The Manager, NCS, the Defense Director, FCC, and the Director, FEMA, will ensure that all information regarding potential and/or actual emergency situations with significant telecommunication implications is brought to the attention of the WHSSS and the Chairman, JTRB, in a coordinated manner.

(b) The FCC will ensure that the views and concerns of private sector telecommunication entities are conveyed to the Director, OSTP, and the JTRB, and will articulate private sector interests in situations where there are competing private sector and Government requirements.

(c) This process will permit effective monitoring of potential and actual emergency situations by the WHSSS and JTRB and facilitate the undertaking of any Federal emergency responses needed beyond those already being carried out by responsible agencies as part of their established emergency response procedures.

(2) Reporting/Notification

(a) All Federal departments and agencies experiencing severe telecommunications network or system events or receiving information regarding potential or actual emergency situations with significant telecommunication implications are to forward this information to the NCS/DCAOC. Primary sources of this information, in addition to the agency telecommunications management organizations are the NCC and the FEMA NECC/NNOC.

(b) The Manager, NCS, the Defense Director, FCC, and the Director, FEMA, will evaluate the information received from Federal operating elements and other sources and determine, based on the notification criteria described below, whether the telecommunication implications are significant enough to warrant concurrent notification of the Chairman, JTRB, and the WHSSS. As appropriate, the Chairman will notify members of the Board.

(3) Notification Criteria/Thresholds

Upon receipt of information regarding potential or actual telecommunications emergency situations, the Manager, NCS, the Defense Director, FCC, and the Director, FEMA, where appropriate in consultation with each other, the NCC, and the FEMA NECC/NNOC, will evaluate situations in terms of whether (a) they pose significant threats to telecommunication facilities or services; or (b) they create a need for extraordinary telecommunication support. Examples of situations that could be judged to pose significant threats to telecommunication facilities or services or create a need for extraordinary telecommunications support are those enumerated in paragraph IV b. of this Procedure.

(4) Information to Support Notifications

(a) Initial Situation Report. Initial reports to the Chairman, JTRB, and to the WHSSS will convey the minimum essential information to permit assessment of the potential or actual threat or extraordinary telecommunication requirements posed by the situations and to facilitate any Federal response. It is anticipated that such minimum essential information would include:

1. type and extent of emergency, disaster, or extraordinary situation;
2. location or area the emergency, disaster, or extraordinary situation is expected to cover;
3. anticipated time of emergency, disaster, or extraordinary situation;
4. local actions being taken in the telecommunications area; and
5. possible support required.

(Note: This information is to be transmitted either by voice, message, or electronic media. Permanent record of such transmissions will be maintained by the NCS/DCAOC, the NCC or the FEMA NECC/NNOC, as appropriate.)

(b) Status Reports. Following initial notifications, the Manager, NCS, the Defense Director, FCC, and the Director, FEMA, will provide brief update reports, as

warranted by further developments, to the Chairman, JTRB, and, when so requested by the Chairman, to other members of the JTRB or the WHSSS.

(c) Additional Information Requirements. Requirements for additional information will be initiated directly by the Chairman, JTRB, or through the WHSSS, to the Manager, NCS, the Defense Director, FCC, and/or the Director, FEMA.

VI. Membership

a. As prescribed by Section 2(b) (3) of E.O. 12472 and the NSEC charter, the Director, OSTP, shall chair the JTRB and serve as the NSEC National Coordinator if designated by the President under NSEC provisions.

b. The Director, OSTP, has selected the following Federal entities to serve on the JTRB, and has requested that they be represented thereon by the noted officials;

(1) Department of Defense (DoD), by the Assistant Secretary for Command, Control, Communications and Intelligence;

(2) Department of Commerce (DoC), by the Assistant Secretary for Communications and Information;

(3) General Services Administration, by the Commissioner, Information Resources Management Service;

(4) Federal Emergency Management Agency, by the Assistant Associate Director for Information Resources Management;

(5) Federal Communications Commission, by the Defense Director; and

(6) National Communications System, by the Manager.

**JOINT TELECOMMUNICATIONS
RESOURCES BOARD (JTRB)**

**RESPONSE AND COORDINATION
PROCEDURES**



AUGUST 31, 1990

**PREPARED BY
THE OFFICE OF THE MANAGER
NATIONAL COMMUNICATIONS SYSTEM
8TH & SOUTH COURTHOUSE ROAD
ARLINGTON, VA 20305-2010**

JOINT TELECOMMUNICATIONS RESOURCES BOARD (JTRB) RESPONSE AND COORDINATION PROCEDURES

I. INTRODUCTION

A. Purpose. The purpose of this document is to define procedures by which telecommunications resource information is coordinated and shared among Joint Telecommunications Resources Board (JTRB) members.

B. Scope. These procedures are limited to the relationships among the JTRB members.

II. AUTHORITIES

A. Executive Order (E.O.) 12472. E.O. 12472, April 3, 1984, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," established a National Communications System (NCS) comprised of the telecommunications assets of NCS members. Section 2(b) addresses non-wartime emergency functions and directs the Director, Office of Science and Technology Policy (OSTP) to establish a JTRB to assist him in carrying out his non-wartime emergency telecommunications functions.

B. JTRB Standard Operating Procedures. The JTRB Standard Operating Procedures (SOP) were approved on January 18, 1989, and define the background, purpose, authorities, applicability, and scope of responsibility, functions, and membership of the JTRB.

C. OSTP Memorandum, July 30, 1984. The Director, OSTP, in establishing the JTRB, selected those departments, agencies, or entities which comprise the membership of the Board, and designated selected officials and alternates to serve as representatives. The membership of the JTRB is as follows:

- Director, Office of Science and Technology Policy (Chairman);
- Department of Defense (DoD), by the Assistant Secretary for Command, Control, Communications, and Intelligence;
- Department of Commerce (DOC), by the Assistant Secretary for Communications and Information;
- General Services Administration (GSA), by the Commissioner, Information Resources Management Service;

- Federal Emergency Management Agency (FEMA), by the Assistant Associate Director of Information Resources Management;
- Federal Communications Commission (FCC), by the Defense Commissioner; and
- National Communications System (NCS), by the Manager.

D. National Plan for Telecommunications Support in Non-Wartime Emergencies. The "National Plan for Telecommunications Support in Non-Wartime Emergencies," September 1987, serves as a basis for planning and for utilization of national telecommunications assets and resources in support of non-wartime telecommunications emergencies, or in other extraordinary situations, including those covered by the Disaster Relief Act of 1974 (PL 983-288).

III. CONCEPT OF OPERATIONS

A. The responsibility to respond to non-wartime crisis and emergency situations resides with those individual Federal organizations assigned national security and emergency preparedness (NS/EP) missions. Each Federal organization will plan for and take such action as required to meet its mission responsibilities given the nature of the non-wartime crisis or emergency situation.

B. Monitoring will be accomplished on a continuous, around the clock basis by the Office of the Manager, NCS/National Coordinating Center (OMNCS/NCC), the FEMA National Emergency Coordinating Center/National Network Operations Center (NECC/NNOC) and other operating centers as necessary.

C. The JTRB will monitor non-wartime crisis or emergency situations in order to assess the impact on telecommunications resources. The provision of extraordinary telecommunications support will be based upon results of the assessment. Extraordinary telecommunications support meets those requirements for telecommunications services or management actions that are beyond the normal procedures and/or capabilities of individual commercial carriers or government organizations.

D. The JTRB will meet at the call of the Chairman to consider the need for Federal Government action in response to a non-wartime crisis or emergency situation. When required, the JTRB will assist in resolving competing demands for telecommunications services, telecommunications policy issues, and any necessary service reprioritizations resulting from non-wartime emergency situations.

E. The JTRB will also function as the Telecommunications Functional Group when the National System for Emergency Coordination (NSEC) is activated.

IV. ROLES AND RESPONSIBILITIES

A. The Chairman, JTRB – will:

- (1) Evaluate information provided by the Manager, NCS; the Director, FEMA; the Defense Commissioner, FCC; the Commissioner, GSA; the Assistant Secretary, DoD; and the Assistant Secretary, DoC, to assess the impact on national telecommunications resources.
- (2) Provide policy direction for the exercise of the President's non-wartime emergency telecommunications functions.
- (3) Provide information, advice, guidance, and assistance to the President and to those Federal departments and agencies with responsibilities for the provision, management, or allocation of telecommunications resources during non-wartime situations.
- (4) Provide recommendations to the President and appropriate officials within the Executive Office of the President (EOP).
- (5) Convene the JTRB as necessary.

B. Director, FEMA – will:

- (1) Monitor potential or actual crisis or emergency situations that may or do have an impact on national telecommunications resources.
- (2) Report such situations to the Manager, NCS and the Defense Commissioner, FCC, when circumstances warrant.
- (3) Send to all JTRB members information copies of all situation reports.
- (4) Coordinate with the Manager, NCS, and the Defense Commissioner, FCC, on all such situations before reporting to the Chairman, JTRB.

C. Manager, NCS – will:

- (1) Monitor potential or actual crisis or emergency situations that may or do have an impact on national telecommunications resources.
- (2) Report to the Director, FEMA, and the Defense Commissioner, FCC, on such situations when circumstances warrant.
- (3) Send to all JTRB members information copies of all situation reports.

- (4) Coordinate with the Director, FEMA, and the Defense Commissioner, FCC, on all such situations before reporting to the Chairman, JTRB.
- (5) Provide administrative and staff support to the JTRB.

D. Defense Commissioner, FCC – will:

- (1) Monitor potential or actual crisis or emergency situations that may or do have an impact on national telecommunications resources.
- (2) Report to the Director, FEMA, and the Manager, NCS, on such situations when circumstances warrant.
- (3) Send to all JTRB members information copies of all situation reports.
- (4) Coordinate with the Director, FEMA, and the Manager, NCS, on all such situations before reporting to the Chairman, JTRB.
- (5) Represent the FCC when the Chairman has convened a meeting of the JTRB. Present the private sector's interest and requirements, and provide regulatory guidance as needed.

E. Commissioner, GSA - will:

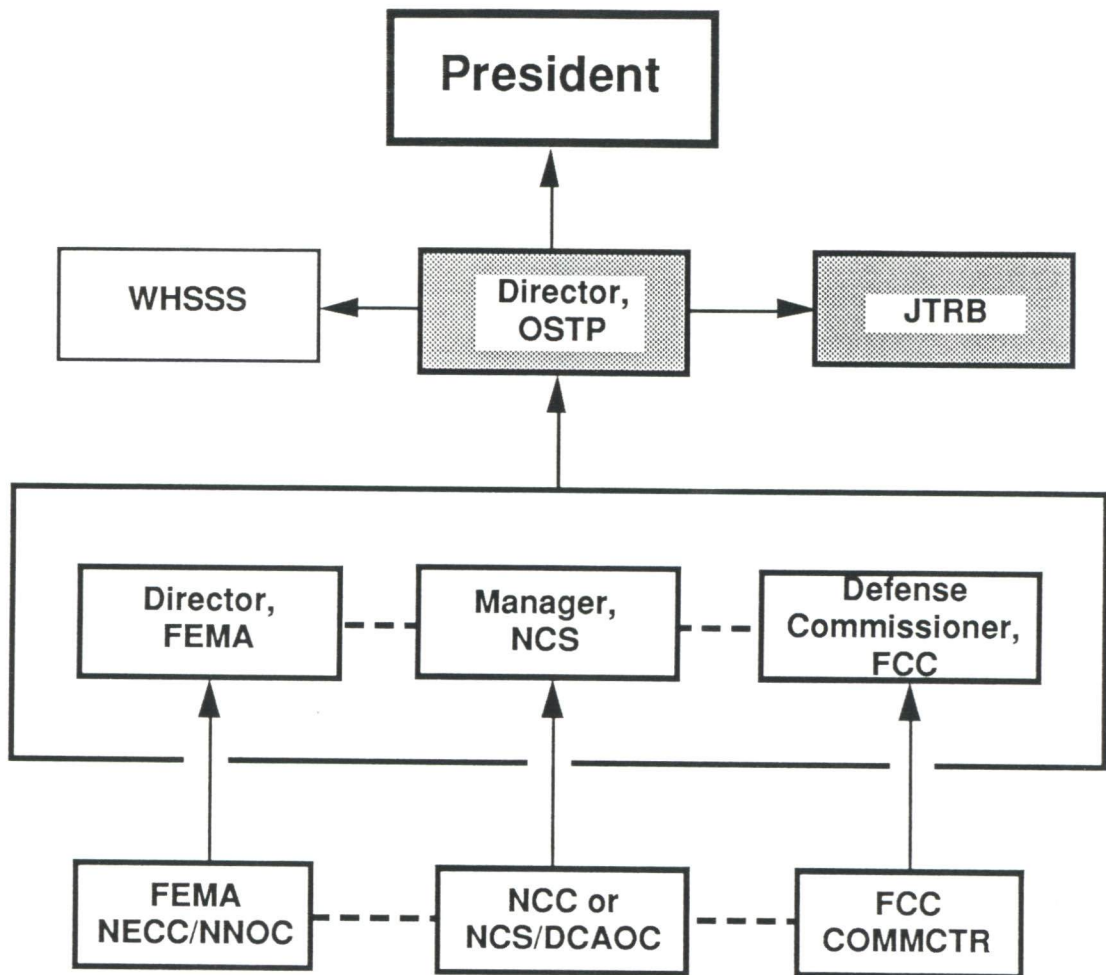
- (1) Monitor the status of the crisis and emergency support functions of the Integrated Federal Telecommunications System (IFTS) that support Federal Government operations.
- (2) Report to the Manager, NCS, and to the Director, FEMA, all critical IFTS conditions, when circumstances warrant.
- (3) Serve as a full-time, active participant in the NCC, and in the coordination of operational policy development for the reallocation of IFTS resources to support all crisis or emergency situations.

V. INFORMATION EXCHANGE PROCESS

Exhibit 1 depicts how information is exchanged and coordinated among the Manager, NCS, the Director, FEMA, the Defense Commissioner, FCC, and their operation centers. If the situation warrants, this information is then reported to the Director, OSTP, who can then either take action on the information, convene the JTRB, and/or forward the information to the White House Situation Support Staff (WHSSS) and the President.

EXHIBIT 1 INFORMATION EXCHANGE PROCESS

INFORMATION EXCHANGE PROCESS



LEGEND:

REPORTING:
 COORDINATION:

A. All Federal Organizations – will:

- (1) Monitor and assess all situations that have the potential for or actually have an impact on telecommunications networks or systems.
- (2) Report such situations to the OMNCS via the NCC or, during non-duty hours, its alternate, the NCS/DCAOC.

NCC: Commercial: (202) 746-1300
FTS: (202) 746-1300
AUTOVON: 286-1300
Secure FAX: 557-5012
Non-Secure FAX: 03026-577-2185

NCS/DCAOC:
Commercial: (202) 692-2714
FTS: (202) 692-2714
AUTOVON: 222-2714

- (3) Concurrently, report on such situations to the Director, FEMA, via the NECC/NNOC.

NECC:
Commercial: (202) 898-6100
FTS: 300 380-6100
AUTOVON: 380-6100
Secure FAX: (202) 898-6103
Non-Secure FAX: (202) 898-6177

NNOC:
Commercial: (202) 566-1600, ext. 4000
FTS: 300 380-4000
AUTOVON: 380-4000
Secure FAX: 380-2922
Non-Secure FAX: 380-4019

- (4) Concurrently, report on such situations to the Defense Commissioner, FCC, via the FCC Communications Center.

FCC Communications Center:
Commercial: (202) 632-6975
FTS: (202) 632-6975
Non-Secure FAX: (202) 653-5402

B. The OMNCS/NCC – will:

- (1) Receive and evaluate all reports from other Federal organizations.
- (2) Ensure that the FEMA NECC/NNOC and the FCC Communications Center receive copies of such reports.
- (3) Obtain the status of commercial telecommunications services from the NCC telecommunications industry members.
- (4) Make a recommendation to the Manager, NCS, on the need to advise the Director, OSTP, of such situation(s) being reported.
- (5) If deemed necessary by the Manager, NCS, report to the Chairman, JTRB, in accordance with the reporting format contained in Annex A. Provide a copy of such report(s) to all JTRB members and the WHSSS when so directed by the Chairman, JTRB.
- (6) Coordinate such actions with the FEMA NECC/NNOC and the FCC Communications Center.
- (7) Ensure that the Commissioner, GSA is alerted and kept abreast of all crisis or emergency situations which may impact upon the operations, need for augmentation, or reallocation, of IFTS resources.
- (8) Provide additional information on the situation to the Chairman, JTRB, and JTRB members as circumstances warrant.
- (9) If the situation requires the resolution of competing demands for telecommunications services, and/or service reprioritizations, the NCC will prepare a decision package for presentation to the Chairman, JTRB, and/or the full Board.

C. The FEMA NECC/NNOC – will:

- (1) Ensure that the NCC and the FCC Communications Center have received reports from other government organizations, particularly those impacting or potentially impacting telecommunications resources.
- (2) Obtain the status of Federal, State, and local government telecommunications services that may be or have been impacted by the situation.
- (3) Coordinate such action with the NCC and the FCC.

- (4) Provide additional information as required to the NCC and FCC for follow-on reports.

D. The FCC Communications Center – will:

- (1) Ensure that the NCC and the FEMA NECC/NNOC receive reports from the private sector and other government organizations, particularly those impacting or potentially impacting telecommunications resources.
- (2) Obtain information from the Federal, State, and Local levels, and represent the private sector's interests.
- (3) Coordinate such actions with the NCC and FEMA.
- (4) Provide additional information as required to the NCC and FEMA for follow-on reports.

ANNEX A
JOINT TELECOMMUNICATIONS RESOURCES BOARD
REPORT FORMAT

TO: DIRECTOR, OSTP

FROM: MANAGER, NCS, NCC

SUBJECT: Telecommunications Situation Report

1. Report Number _____
2. [Type and extent of emergency, disaster, or extraordinary situation.]
3. [Location or area the emergency, disaster, or extraordinary situation is expected to cover.]
4. [Anticipated or actual time of emergency, disaster, or extraordinary situation occurrence.]
5. [Local actions being taken in the telecommunications area by industry and government.]
6. [Evaluation of additional support requirement(s).]

- NOTES: 1. This information is to be compiled from reports received from other Federal organizations and/or the telecommunications industry, and coordinated with information received from the FEMA NECC/NNOC and the FCC Communications Center.
2. The report is to be transmitted either by voice, message, or electronic media. A permanent record of such transmissions will be maintained by the NCC.

This document is classified "SECRET".

It is stored in Room _____, in container _____, drawer _____.

Contact _____, telephone number _____, if you wish
to see this document.

These documents are classified "SECRET".

They are stored in Room _____, in container _____, drawer _____.

Contact _____, telephone number _____, if you wish
to see them.

Meetings and Exercises

The following is a list showing past meetings and exercise dates.

JTRB Meetings

- July 14, 1992
- August 12, 1991
- March 28, 1990
- February 10, 1990
- February 27, 1989
- January 18, 1989
- February 11, 1988
- July 10, 1987
- August 27, 1986

JTRB Exercises

- April 3, 1989
- February 11, 1988
- November 18, 1987
- November 6, 1986

JTRB members should have meeting minutes and exercise After-Action Reports on file.

Biographies and photographs will be provided
later by JTRB members.