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TELECOMMUNICATIONS

AUTHORITIES

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

Responsible Agency: Office of Science and Technology Policy (OSTP)
Policy Official: Director, OSTP
Program Official: Manager, National Communications System (NCS)
Date of Paper: 29 May 1986

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

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

BACKGROUND:

Legislative history and previous uses of Section 706.

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

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

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

Encl.

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

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

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

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

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

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

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

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

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

ALTERNATE LEVELS OF IMPLEMENTATION:

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

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

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

Other conditions precedent:

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

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

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

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

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

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

Other conditions precedent:

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

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

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

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

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

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

Other conditions precedent:

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

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

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

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

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

Other conditions precedent:

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

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

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

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

Other conditions precedent:

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

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

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

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

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

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

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

AUTHORITIES: See Appendix F.

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

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

DECISION PROCESS:

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

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

c. The President will adopt or reject the recommendation.

IMPLEMENTATION PROCESS:

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

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

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

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

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

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

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

RELATED ACTIONS:

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

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

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

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

APPENDICES:

A. Footnotes

B. Examples of Current Telecommunication Technologies Subject to Presidential War Emergency Powers

C. Information Requirements (To be provided.)

D. Benefits and Costs (To be provided.)

E. Implementation Outline (To be provided.)

F. List of Authorities

G. Texts of Selected Authorities

(1) Section 706 of the Communications Act of 1934

(2) Executive Order No. 12472

(3) Standard Operating Procedures of the Joint Telecommunications Resources Board

H. Examples of Standby Documents Employed during Previous Uses of Section 706

(1) Executive Order No. 9089

(2) Executive Order No. 10312

I. Standby Documents

(1) Proposed executive order prescribing use of presidential or emergency powers pursuant to presidential proclamation (To be provided.)

(2) Proposed executive order prescribing use of presidential war or emergency powers pursuant to congressional declaration (To be provided.)

APPENDIX A: FOOTNOTES

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

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

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

APPENDIX B:

EXAMPLES OF CURRENT TELECOMMUNICATION TECHNOLOGIES
SUBJECT TO PRESIDENTIAL WAR EMERGENCY POWERS

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

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

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

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

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§ 606. War powers of President

Director, OSTP

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

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

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

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

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

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

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

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

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

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

Historical Note

References in Text. Paragraph 20 of section 41 and section 250 of Title 28, referred to in subsec. (e), were repealed by Act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and are now covered by sections 1346, 1491, 1501, 1503, 2401, 2402, and 2501 of Title 28, Judiciary and Judicial Procedure.

1951 Amendment. Subsec. (c). Act Oct. 24, 1951, § 1, clarified the scope of the President's powers to use, control, and close radio facilities of all kinds which might be useful to an enemy for navigational purposes.

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

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

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

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

JOINT TELECOMMUNICATIONS RESOURCES BOARD (JTRB)

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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)

INTERIM RESPONSE AND COORDINATION PROCEDURES

FEBRUARY 11, 1988

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

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JOINT TELECOMMUNICATIONS RESOURCES BOARD (JTRB)
INTERIM
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 JTRB members in responding to non-wartime crisis or emergency situations.

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 comprised of the telecommunication 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 Joint Telecommunications Resources Board (JTRB) to assist him in carrying out his non-wartime emergency telecommunication functions.

B. JTRB Standard Operating Procedures. The JTRB Standard Operating Procedures (SOP) were approved on July 24, 1985, 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 for Information Resources Management;

- Federal Communications Commission (FCC), by the Defense Director; 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 telecommunication assets and resources in support of non-wartime telecommunication 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 emergency preparedness (NSEP) 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. Day-to-day monitoring will be accomplished through the Office of the Manager, NCS/National Coordinating Center (OMNCS/NCC) and the FEMA National Emergency Coordinating Center/National Network Operations Center (NECC/NNOC). When a major disaster, emergency, or extraordinary situation occurs, response will be in accordance with the "National Plan for Telecommunications Support in Non-Wartime Emergencies."

C. The JTRB will monitor such non-wartime crisis or emergency situations in order to assess the impact on telecommunication resources. Such assessment will be for the purpose of assisting in providing extraordinary telecommunications support. Extraordinary telecommunications support is defined as meeting those requirements for telecommunication 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 telecommunication services, telecommunication policy issues, and any necessary service reprioritizations resulting from non-wartime emergency situations.

IV. Roles and Responsibilities

A. The Director, OSTP - will:

(1) Evaluate the information provided by the OMNCS and FEMA to assess the impact on national telecommunication resources.

(2) Provide policy direction for the exercise of the President's non-wartime emergency telecommunication 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 telecommunication 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. FEMA NECC/NNOC - will:

(1) Monitor potential or actual crisis or emergency situations that may or do have an impact on national telecommunication resources.

(2) Report such situations to the OMNCS/NCC when circumstances warrant.

(3) Send to all JTRB members information copies of all situation reports sent to the OMNCS/NCC.

(4) Coordinate with the Deputy Manager, NCC on all such situations before reporting to the Director, OSTP.

C. OMNCS/NCC - will:

(1) Monitor potential or actual crisis or emergency situations that may or do have an impact on national telecommunication resources.

(2) Report to the Director, OSTP on such situations when circumstances warrant.

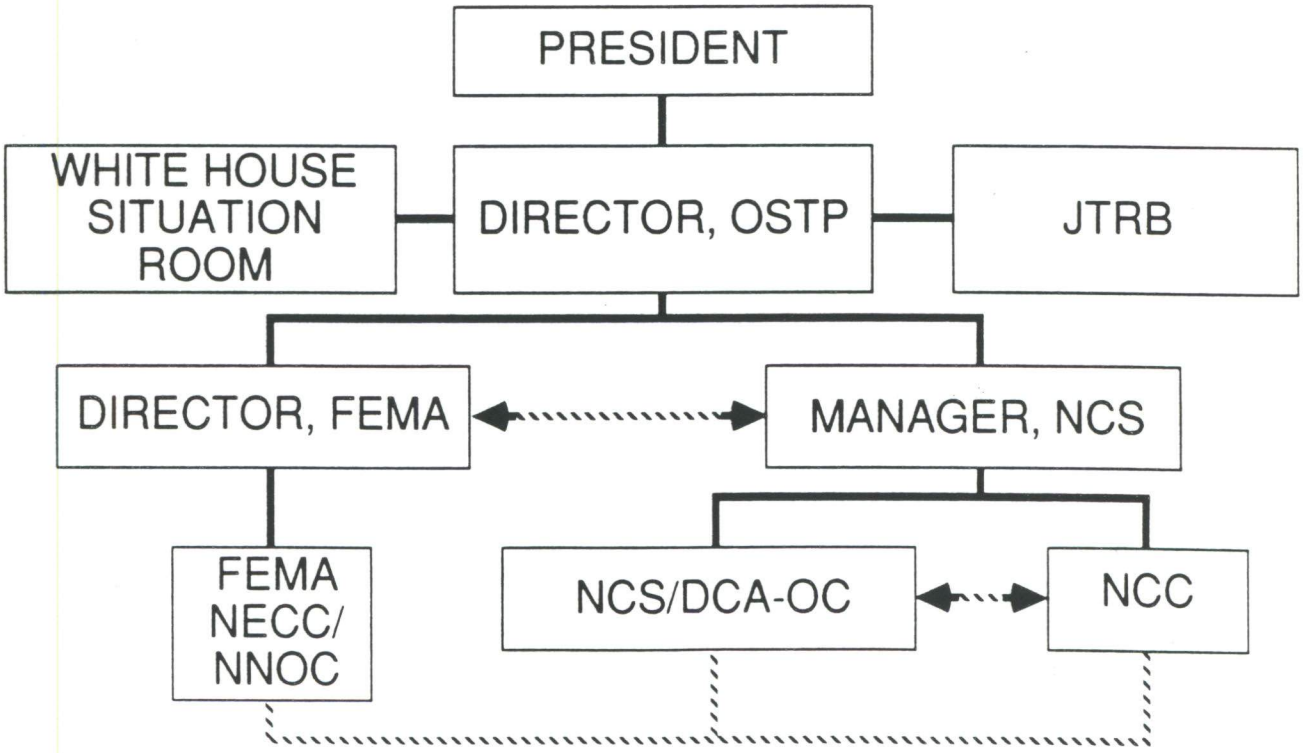
(3) Send to all JTRB members information copies of all situation reports sent to the Director, OSTP.

(4) Coordinate with the FEMA NECC/NNOC on all such situations reported to the Director, OSTP.

(5) Provide administrative and staff support to the JTRB.

V. Information Exchange Process. Exhibit 1 depicts the means by which information is exchanged and coordinated between the OMNCS/NCC, the NCS/DCAOC, and the FEMA NECC/NNOC and the White House Situation Room. Solid lines indicate a direct reporting responsibility while dashed lines indicate a coordination function.

EXHIBIT 1
INFORMATION EXCHANGE PROCESS



A. All Federal Organizations - will:

(1) Monitor and assess all situations that have the potential for or actually have an impact on telecommunication 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/NNOC:	Commercial:	(202) 566-1600, ext. 3016
	FTS:	(202) 566-1600, ext. 3016
	AUTOVON:	380-3016
	Secure FAX	02113-(202) 566-1037
	Non-Secure FAX	300-380-5238

B. The OMNCS/NCC - will:

(1) Receive and evaluate all reports from other Federal organizations.

(2) Ensure that the FEMA NECC/NNOC receives copies of such reports.

(3) Obtain the status of commercial telecommunication 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 Director, OSTP in accordance with the reporting format contained in Annex A. Provide a copy of such report(s) to all JTRB members and the White House Situation Room when so directed by the Director, OSTP.

(6) Coordinate such actions with the FEMA NECC/NNOC.

(7) Provide additional information on the situation to the Director, OSTP and JTRB members as circumstances warrant.

(8) If the situation requires the resolution of competing demands for telecommunication 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 has received reports from other government organizations, particularly those impacting or potentially impacting telecommunication resources.

(2) Obtain the status of Federal, State, and local government telecommunication services that may be or have been impacted by the situation.

(3) Coordinate such action with the NCC.

(4) Provide additional information as required to the NCC 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, 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.

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.

4698

THE WHITE HOUSE

WASHINGTON

Reply CHRON

July 15, 1985

MEMORANDUM FOR THE HONORABLE CASPAR W. WEINBERGER
Executive Agent for the National
Communications System (NCS)

SUBJECT: National Plan for Communications Support in Emergencies and Major Disasters

Pursuant to Executive Order 12472, the Director of the Office of Science and Technology Policy (OSTP) has established the Joint Telecommunications Resources Board to assist in the exercise of the President's non-wartime emergency telecommunications functions. To support national security emergency preparedness (NSEP) telecommunications, the Manager, National Communications System (NCS) has also activated the National Coordinating Center for Telecommunications and the Federal Emergency Management Agency has deployed a mobile emergency communications system.

In view of these recent enhancements to our NSEP telecommunications capabilities and with the future operations of a CHOSUN terminal in the NCS/NCC, it is requested that the Manager, NCS, in coordination with OSTP and the Joint Telecommunications Resources Board, update the National Plan for Communications Support in Emergencies and Major Disasters, dated July 1983, as necessary to reflect these developments. The revised plan should reflect the National Telecommunications Management System concept which was developed to support continuity of government programs. The General Services Administration should also continue to provide the NCS Regional Emergency Communications Coordinators for both emergency communications planning and operations. The emergency communications capabilities and assets of all NCS organizations should be reviewed and considered to support the plan.

The revised plan should be submitted to the National Security Council for review by December 1, 1985.

FOR THE PRESIDENT:

Robert C. McFarlane

Robert C. McFarlane

cc: George Keyworth
Director, OSTP

SYSTEM II
90809

THE WHITE HOUSE

WASHINGTON

FOR OFFICIAL USE ONLY

August 8, 1983

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF COMMERCE
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF THE INTERIOR
THE ATTORNEY GENERAL
THE CHAIRMAN, JOINT CHIEFS OF STAFF
THE CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION
THE ASSISTANT TO THE PRESIDENT FOR POLICY DEVELOPMENT
THE DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY POLICY
THE DIRECTOR, FEDERAL EMERGENCY MANAGEMENT
THE DIRECTOR, CENTRAL INTELLIGENCE
THE DIRECTOR, UNITED STATES INFORMATION AGENCY
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
THE DIRECTOR, NATIONAL SECURITY AGENCY
THE MANAGER, NATIONAL COMMUNICATIONS SYSTEM
THE ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION
THE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION
THE ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SUBJECT: Unclassified Version of NSDD-97

The general goals of the Administration's national security telecommunications policy must be disseminated and understood by all relevant federal agencies if effective planning is to occur. To facilitate this, the President has approved a declassified version of NSDD-97, National Security Telecommunications Policy. Agencies are encouraged to distribute this directive to their telecommunication planning offices.

Although the document is unclassified, it retains its "For Official Use Only" caveat.

FOR THE PRESIDENT:

William Clark

William P. Clark

Attachment
NSDD-97

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COPY 15 OF 24 COPIES

SYSTEM II
90809

THE WHITE HOUSE

WASHINGTON

FOR OFFICIAL USE ONLY

August 3, 1983

NATIONAL SECURITY DECISION
DIRECTIVE NUMBER 97

(UNCLASSIFIED VERSION)

NATIONAL SECURITY TELECOMMUNICATIONS POLICY

The nation's domestic and international telecommunications resources, including commercial, private, and government-owned services and facilities, are essential elements in support of U.S. national security policy and strategy. A survivable telecommunications infrastructure able to support national security leadership is a crucial element of U.S. deterrence. National security leadership requirements are those embodied in the President's responsibilities as Commander in Chief, Head of State, and Chief Executive; those requirements include, but are not limited to, the ability for:

- gathering intelligence and conducting diplomacy;
- ensuring continuity of command and control of military forces; and
- providing for continuity of government and essential functions thereof.

It must be manifestly apparent to a potential enemy that the U.S. ability to maintain continuity of command and control of all military forces, and conduct other essential national leadership functions cannot be eliminated by a nuclear attack. If deterrence fails, the national telecommunications infrastructure must possess the functional characteristics of connectivity, redundancy, interoperability, restorability, and hardness necessary to provide a range of telecommunications services to support these essential national leadership requirements. Planning and resource allocation must occur to provide for facilities and systems able to assure essential telecommunications in a stressed environment. Proper implementation of this policy will also improve the nation's overall emergency preparedness posture.

OBJECTIVES: To fulfill these requirements, the nation's telecommunications capabilities should be developed or improved, and implementing procedures established, to provide for:

- support for the vital functions of worldwide intelligence collection and diplomacy;

- a reliable and enduring threat assessment capability;
- assured connectivity between the National Command Authority and military forces;
- support of military mobilization as directed by the President; and
- continuity of government during and after crisis situations and recovery of critical national functions following crisis situations.

PRINCIPLES: In support of these objectives, the following policy principles are established:

- A survivable and enduring national telecommunications capability is required. It should be composed of government, commercial, and private facilities, systems, and networks, and include the specific automated information processing resources which are embedded in, or support, the component telecommunications facilities and systems and their associated data bases.
- Many national security leadership telecommunications requirements depend upon dedicated government systems. There will also be continued reliance upon government, commercial, or private telecommunications resources for critical government-wide telecommunications during crisis situations.
- Telecommunications to support national security leadership requirements are essential and have priority in the initiation, operation, and restoration of services and facilities during periods of international tension, threat of war, wartime, and following the cessation of hostilities.
- An enduring and survivable control mechanism, to include minimum orderwire communications, must be established and operated to direct and manage the initiation, coordination, restoration, and reconstitution of telecommunications services and facilities required in support of national security leadership requirements.
- Functionally similar government telecommunications networks and facilities should be designed to provide the ability to rapidly and automatically interchange traffic in support of national security leadership requirements.
- Future government and commercial facilities should take into account the requirement to locate outside of likely nuclear target areas to the extent financially and technically feasible.

- Commercial satellite telecommunications resources should be enhanced to support the objectives of this directive.

- The objectives of this directive shall be applied to telecommunications facilities and services serving the U.S. abroad.

- Telecommunications enhancements undertaken pursuant to this directive shall provide realistic improvement to the telecommunications capability that currently exists.

IMPLEMENTATION: A Steering Group consisting of the Director, Office of Science and Technology Policy (OSTP), the Executive Agent of the National Communications System (NCS), the Associate Director of the Office of Management and Budget (OMB) for National Security and International Affairs, and chaired by the Assistant to the President for National Security Affairs, or his representative, is established. This Steering Group shall:

- oversee this directive and ensure its implementation. It shall provide guidance to the Manager, NCS concerning all activities consistent with this directive;

- approve initiatives to be undertaken to enhance national security telecommunications capabilities pursuant to this directive;

- address, in consultation with relevant operating agencies, the delegation of funding and implementation responsibilities for approved telecommunications enhancement initiatives consistent with this directive;

- on a continual basis, review the status of the NCS, including authorities and membership criteria, and recommend to the President changes in existing NCS authorities or membership essential to support the objectives of this directive;

- approve the establishment of working groups necessary to assist in the implementation of this directive;

- monitor the ongoing activities of the National Security Telecommunications Advisory Committee (NSTAC), and ensure that the objectives and principles of this directive are addressed. In this respect, it shall provide guidance to the Chairman of the NSTAC through the Designated Federal Official;

- confer, when appropriate, with the Emergency Mobilization Preparedness Board (EMPB) and the Director, Federal Emergency Management Agency, concerning issues of mutual interest; and

- with Presidential approval, amend or revise the objectives and/or principles contained herein as national security needs require.

The Manager, NCS, shall:

- consult with and take direction from the Steering Group regarding the implementation of this directive;
- ensure the development, in conjunction with NCS operating agencies, of plans to fulfill the principles and objectives stated in this directive, including an overall telecommunications architecture and timetable;
- function as the overall coordinator, in consultation with the designated implementing agency, for each initiative approved by the Steering Group pursuant to this directive;
- ensure that all relevant activities in support of this policy directive are fully coordinated with the Executive Agent and all NCS principals;
- develop, for review by the Steering Group, overall budget profiles regarding approved initiatives and related activities;
- develop plans, in consultation with the NSTAC, for an effective mechanism to manage and control the initiation, coordination, restoration, and reconstitution of existing commercial telecommunications services and facilities to support national security telecommunications leadership requirements;
- consult with the FCC, as appropriate, concerning this directive; and
- prepare annually, or as otherwise directed, a written report to the Steering Group on the progress of approved initiatives, including an assessment of the resources that will be required to attain the objectives of this directive.

The National Security Telecommunications Advisory Committee shall:

- provide to the President and the Executive Agent, NCS, information and advice from the perspective of the telecommunications industry with respect to the implementation of this policy directive and periodically report to the President, through the Assistant to the President for National Security Affairs, and the Secretary of Defense in his capacity as Executive Agent for the NCS, and
- serve as a forum, when appropriate, for joint industry and government planning to support this directive.

All Departments and Agencies shall:

- incorporate the provisions of this policy directive when modifying their current telecommunications facilities, systems or networks or planning new ones;

- as deemed necessary or as required, provide information and assistance to, and consult with, the Steering Group in support of this directive;

- make necessary and appropriate information available, through the Executive Agent, NCS, to commercial carriers, or other appropriate private sector telecommunications operators and providers to facilitate their planning of backbone facilities and control centers, where possible, outside of likely nuclear target areas;

- make necessary and appropriate information available to the Office of the Manager, NCS, regarding all agency telecommunications initiatives in support of the objectives of this directive;

- consistent with the provisions of Executive Order 12046, and in coordination with the Executive Agent, NCS, consult with the FCC on implementing the provisions of this policy directive;

- as deemed appropriate and necessary to support national security leadership requirements, and in consultation with the Steering Group, apply the objectives and principles of this directive to telecommunications services and facilities serving U.S. facilities abroad; and

- submit progress reports annually, or as otherwise requested, to the Steering Group, in coordination with the Manager, NCS, regarding agency actions on approved initiatives and other activities in support of this directive.

This directive is not intended to interfere with the special operational or security requirements of any agency during normal or during wartime situations.

Telecommunications functions not associated with national security leadership requirements are excluded from the scope of this directive.

Nothing in this directive amends or contravenes Presidential Directive/NSC-24.

Presidential Directive/NSC-53 is hereby superseded and canceled.

Ronald Reagan

15 24

Presidential Documents

Executive Order 12382 of September 13, 1982

President's National Security Telecommunications Advisory Committee

By the authority vested in me as President by the Constitution of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee on National Security Telecommunications, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's National Security Telecommunications Advisory Committee which shall be composed of no more than 30 members. These members shall have particular knowledge and expertise in the field of telecommunications and represent elements of the Nation's telecommunications industry. Members of the Committee shall be appointed by the President.

(b) The President shall annually designate a Chairman and a Vice Chairman from among the members of the Committee.

(c) To assist the Committee in carrying out its functions, the Committee may establish appropriate subcommittees or working groups composed, in whole or in part, of individuals who are not members of the Committee.

Sec. 2. *Functions.* (a) The Committee shall provide to the President, among other things, information and advice from the perspective of the telecommunications industry with respect to the implementation of Presidential Directive 53 (PD/NSC-53), National Security Telecommunications Policy.

(b) The Committee shall provide information and advice to the President regarding the feasibility of implementing specific measures to improve the telecommunications aspects of our national security posture.

(c) The Committee shall provide technical information and advice in the identification and solution of problems which the Committee considers will affect national security telecommunications capability.

(d) In the performance of its advisory duties, the Committee shall conduct reviews and assessments of the effectiveness of the implementation of PD/NSC-53, National Security Telecommunications Policy.

(e) The Committee shall periodically report on matters in this Section to the President and to the Secretary of Defense in his capacity as Executive Agent for the National Communications System.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Committee such information with respect to national security telecommunications matters as it may require for the purpose of carrying out its functions. Information supplied to the Committee shall not, to the extent permitted by law, be available for public inspection.

(b) Members of the Committee shall serve without any compensation for their work on the Committee. However, to the extent permitted by law, they shall be entitled to travel expenses, including per diem in lieu of subsistence.

(c) Any expenses of the Committee shall, to the extent permitted by law, be paid from funds available to the Secretary of Defense.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended (5

U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Secretary of Defense, in accord with guidelines and procedures established by the Administrator of General Services.

(b) In accordance with the Federal Advisory Committee Act, as amended, the Committee shall terminate on December 31, 1982, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
September 13, 1982.

[FR Doc. 82-25518
Filed 9-13-82; 4:39 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12454 of December 29, 1983

President's National Security Telecommunications Advisory Committee

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that the President's National Security Telecommunications Advisory Committee, established by Executive Order No. 12382, is continued until September 30, 1985.

Ronald Reagan

THE WHITE HOUSE,
December 29, 1983.

[FR Doc. 84-301
Filed 1-3-84; 11:24 am]
Billing code 3195-01-M

EO 12046

[3195-01]

Executive Order 12046 March 27, 1978

Relating to the Transfer of Telecommunications Functions

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)), the authority and control vested in the President by Section 2 of Executive Order No. 11556, as amended, Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the transfer of certain telecommunications functions, it is hereby ordered as follows:

SECTION 1
Reorganization Plan

1-1. *Implementation of Reorganization Plan.*

1-101. The transfer of all the functions of the Office of Telecommunications Policy and of its Director, as provided by Section 5B of Reorganization Plan No. 1 of 1977 (42 FR 56101), is hereby effective.

1-102. The abolition of the Office of Telecommunications Policy, as provided by Section 3C of Reorganization Plan No. 1 of 1977, is hereby effective.

1-103. The establishment of an Assistant Secretary for Communications and Information, Department of Commerce, as provided by Section 4 of Reorganization Plan No. 1 of 1977, is hereby effective.

1-2. *Telecommunications Function.*

1-201. Prior to the effective date of Reorganization Plan No. 1 of 1977, the Office of Telecommunications Policy and its Director had the functions set forth or referenced by: (1) Section 1 of Reorganization Plan No. 1 of 1970 (5 U.S.C. App. II), (2) Executive Order No. 11556 of September 4, 1970, as amended (47 U.S.C. 305 note), (3) Executive Order No. 11191 of January 4, 1965, as amended (47 U.S.C. 721 note), (4) Executive Order No. 10705 of April 17, 1957, as amended (47 U.S.C. 606 note), and (5) Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556 and entitled "Establishment of the National Communications System."

1-202. So much of those functions which relate to the preparation of Presidential telecommunications policy options or to the disposition of appeals from assignments of radio frequencies to stations of the United States Government were transferred to the President. These functions may be delegated within the Executive Office of the President and the delegations are set forth in this Order at Sections 3-1 through 4-3.

1-203. Those telecommunications functions which were not transferred to the President were transferred to the Secretary of Commerce. Functions transferred to the Secretary are set forth in this Order at Sections 2-1 through 2-5.

SECTION 2
FUNCTIONS TRANSFERRED TO COMMERCE

2-1. *Radio Frequencies.*

2-101. The authority of the President to assign frequencies to radio stations or to classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, was transferred to the Secretary of Commerce.

2-102. This authority, which was originally vested in the President by Section 305(a) of the Communications Act of 1934, as amended (47 U.S.C. 305(a)), was transferred and assigned to the Director of the Office of Telecommunications Policy by Section 1 of Reorganization Plan No. 1 of 1970 and Section 3 of Executive Order No. 11556.

2-103. The authority to assign frequencies to radio stations is subject to the authority to dispose of appeals from frequency assignments as set forth in Section 3-2 of this Order.

2-2. *Construction of Radio Stations.*

2-201. The authority to authorize a foreign government to construct and operate a radio station at the seat of government of the United States was transferred to the Secretary of Commerce. Authorization for the construction and operation of a radio station pursuant to this authority and the assignment of a frequency for its use can be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

2-202. This authority, which was originally vested in the President by Section 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305), was delegated to the Director of the Office of Telecommunications Policy by Section 5 of Executive Order No. 11556.

2-3. *Communications Satellite System.*

2-301. Certain functions relating to the communications satellite system were transferred to the Secretary of Commerce. Those functions were delegated or assigned to the Director of the Office of Telecommunications Policy by Executive Order No. 11191, as amended by Executive Order No. 11556. The functions include authority vested in the President by Section 201(a) of the Communications Satellite Act of 1962 (76 Stat. 421, 47 U.S.C. 721(a)). These functions are specifically set forth in the following provisions of this Section.

(a) Aid in the planning and development of the commercial communications satellite system and aid in the execution of a national program for the operation of such a system.

(b) Conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation.

(c) Coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to insure that there is full and effective compliance at all times with the policies set forth in the Act.

(d) Make recommendations to the President and others as appropriate, with respect to all steps necessary to insure the availability and appropriate utilization of the communications satellite system for general government purposes in consonance with Section 201(a)(6) of the Act.

(e) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.

(f) Assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under Section 201(a) of the Act, make necessary recommendations to the President in connection therewith, and keep the President currently informed with respect to the carrying out of the Act.

(g) Serve as the chief point of liaison between the President and the Corporation.

(h) The Secretary of Commerce shall timely submit to the President each year the report (including evaluations and recommendations) provided for in Section 404(a) of the Act (47 U.S.C. 744(a)).

(i) The Secretary of Commerce shall coordinate the performance of these functions with the Secretary of State. The Corporation and other concerned Executive agencies shall provide the Secretary of Commerce with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

2-4. *Other Telecommunications Functions.*

Certain functions assigned, subject to the authority and control of the President to the Director of the Office of Telecommunications Policy by Section 2 of Executive Order No. 11556 were transferred to the Secretary of Commerce. These functions, subject to the authority and control of the President, are set forth in the following subsections.

2-401. The Secretary of Commerce shall serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2-402. The Secretary of Commerce shall advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

2-403. The Secretary of Commerce shall conduct studies and evaluations concerning telecommunications research and development, and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems. The Secretary shall advise appropriate agencies, including the Office of Management and Budget, of the recommendations which result from such studies and evaluations.

2-404. The Secretary of Commerce shall develop and set forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations. The Secretary of Commerce shall coordinate economic, technical, operational and related preparations for United States participation in international telecommunications conferences and negotiations. The Secretary shall provide advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States, in support of the Secretary of State's responsibility for the conduct of foreign affairs.

2-405. The Secretary of Commerce shall provide for the coordination of the telecommunications activities of the Executive Branch, and shall assist in the formulation of policies and standards for those activities, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

2-406. The Secretary of Commerce shall develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2-407. The Secretary of Commerce shall ensure that the Executive Branch views on telecommunications matters are effectively presented to the Federal Communications Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

2-408. The Secretary of Commerce shall establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States. Agencies shall consult with the Secretary of Commerce to ensure that their conduct of telecommunications activities is consistent with those policies.

2-409. The Secretary of Commerce shall develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

2-410. The Secretary of Commerce shall conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

2-411. The Secretary of Commerce shall coordinate Federal telecommunications assistance to State and local governments.

2-412. The Secretary of Commerce shall conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

2-413. The Secretary of Commerce shall contract for studies and reports related to any aspect of assigned responsibilities.

2-414. The Secretary of Commerce shall participate with the National Security Council and the Director of the Office of Science and Technology Policy in carrying out their functions under Sections 4-1, 4-2, and 4-3 of this Order, and may perform specific staff services for them as requested. rescinded

2-5. *Consultation Responsibilities.*

2-501. The authority to establish coordinating committees, as assigned to the Director of the Office of Telecommunications Policy by Section 10 of Executive Order No. 11556, was transferred to the Secretary of Commerce.

2-502. As permitted by law, the Secretary of Commerce shall establish such interagency committees and working groups composed of representatives of interested agencies, and shall consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Secretary. As permitted by law, the Secretary also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SECTION 3

FUNCTIONS ASSIGNED TO THE OFFICE OF MANAGEMENT AND BUDGET

3-1. *Telecommunications Procurement and Management.*

3-101. The responsibility for serving as the President's principal adviser on procurement and management of Federal telecommunications systems and the responsibility for developing and establishing policies for procurement and management of such systems, which responsibilities were assigned to the

Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(b) of Executive Order No. 11556, were transferred to the President.

3-102. These functions are delegated to the Director of the Office of Management and Budget.

3-2. *Radio Frequency Appeals.*

3-201. The authority to make final disposition of appeals from frequency assignments by the Secretary of Commerce for radio stations belonging to and operated by the United States, which authority was vested in the President by Section 305(a) of the Communications Act of 1934 (47 U.S.C. 305(a)) and transferred to the Director of the Office of Telecommunications Policy by Reorganization Plan No. 1 of 1970 (5 U.S.C. App. II), was transferred to the President.

3-202. This function is delegated to the Director of the Office of Management and Budget.

SECTION 4

FUNCTIONS ASSIGNED TO THE NATIONAL SECURITY COUNCIL AND THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

4-1. *Emergency Functions.*

4-101. The war power functions of the President under Section 606 of the Communications Act of 1934, as amended (47 U.S.C. 606), which were delegated to the Director of the Office of Telecommunications Policy by the Provisions of Section 4 of Executive Order No. 10705, were transferred to the President.

4-102. The Director of the Office of Science and Technology Policy shall prepare to direct the exercise of these functions, and the National Security Council shall prepare to exercise appropriate policy direction, should the President so instruct. These instructions would be given in accordance with the National Emergencies Act (90 Stat. 1255, 50 U.S.C. 1601).

rescinded 12472

4-103. The Director of the Office of Science and Technology Policy shall prepare Presidential policy options with respect to the evaluation by appropriate means, including suitable tests, of the capability of existing and planned communications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

rescinded 12472

4-2. *National Communications System.*

4-201. The responsibility for policy direction of the development and operation of a National Communications System, which was assigned to the Director of the Office of Telecommunications Policy by the Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556, was transferred to the President.

4-202. The function is more particularly identified, and is delegated to the National Security Council, in the amendments made by Section 6-101 of this Order to the President's Memorandum of August 21, 1963.

rescinded 12472

4-3. *Planning Functions.*

4-301. The function of coordinating the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, which function was assigned to the

Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(h) of the Executive Order No. 11556, was transferred to the President.

4-302. The National Security Council shall assist the President in the performance of this function.

revoked

SECTION 5

Related Telecommunications Functions

5-1. *The Department of Commerce.*

5-101. The Secretary of Commerce shall continue to perform the following functions previously assigned by Section 13 of Executive Order No. 11556:

(a) Perform analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary in the performance of assigned responsibilities for the management of electromagnetic spectrum.

(b) Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(c) Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

5-102. The Secretary of Commerce shall participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

5-2. *Department of State.*

5-201. With respect to telecommunications, the Secretary of State shall exercise primary authority for the conduct of foreign policy, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility the Secretary of State shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the Federal Communications Commission's regulatory and policy responsibility in this area.

5-202. The Secretary of State shall continue to perform the following functions previously assigned by Executive Order No. 11191, as amended:

(a) Exercise the supervision provided for in Section 201(a)(4) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 721 (a)(4)); be responsible, although the Secretary of Commerce is the chief point of liaison, for instructing the Communications Satellite Corporation in its role as the designated United States representative to the International Telecommunications Satellite Organization; and direct the foreign relations of the United States with respect to actions under the Communications Satellite Act of 1962, as amended.

(b) Coordinate, in accordance with the applicable interagency agreements, the performance of these functions with the Secretary of Commerce, the Federal Communications Commission, other concerned Executive agencies, and the Communications Satellite Corporation (see 47 U.S.C. 731-735). The Corporation and other concerned Executive agencies shall provide the Secre-

tary of State with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

5-3. *General Services Administration.* The Administrator of General Services shall coordinate with the Secretary of Commerce, the Director of the Office of Science and Technology Policy, and the National Security Council the development of policies, plans, programs, and standards for the emergency use of telecommunications.

SECTION 6

General Provisions

6-1. *Transfer Provisions.*

6-101. In order to reflect the transfer and assignment made by Section 5B of Reorganization Plan No. 1 of 1977 and Section 13 of this Order, the President's Memorandum of August 21, 1963, entitled "Establishment of the National Communications System" (28 FR 9413, 3 CFR 1959-1963 Compilation) as amended by Section 8 of Executive Order No. 11556, is further amended as follows:

(a) Delete the first paragraph after the heading "Executive Office Responsibilities" and substitute therefor:

"The National Security Council shall be responsible for Presidential policy options concerning the development and operation of the National Communications System (NCS) and shall:"..

(b) Delete the last two paragraphs in that part of the memo headed "Executive Office Responsibilities" and substitute therefor:

"In performing these functions, the National Security Council will consult with the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the Office of Science and Technology Policy, and the Administrator of General Services, as appropriate; will establish arrangements for interagency consultation to ensure that the NSC will meet essential needs of all government agencies; and will be responsible for carrying on the work formerly done by the Subcommittee on Communications of the Executive Committee of the National Security Council. In addition to staff regularly assigned, the National Security Council and the Director of the Office of Science and Technology Policy may arrange for the detail or temporary assignment of communications and other specialists from any agency.'

"The Director of the Office of Management and Budget, in consultation with the National Security Council, the Secretary of Commerce, the Administrator of General Services, and the Executive Agent of 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.".

(c) In the paragraph after the heading "Agency Responsibilities", delete "Director of the Office of Telecommunications Policy" and substitute therefor "National Security Council."

6-102. The primary responsibility for performing all administrative support and service functions that are related to functions transferred from the Office of Telecommunications Policy and its Director to the President, including those functions delegated or assigned within the Executive Office of the President, are transferred to the Office of Administration. The Domestic

Policy Staff shall perform such functions related to the preparation of Presidential telecommunications policy options as the President may from time to time direct.

6-103. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, assigned, or delegated as provided in this Order are hereby transferred as appropriate.

6-104. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

6-2. *Amendments.* In order to reflect the transfers provided by this Order, the following conforming amendments and revocations are ordered:

6-201. Section 306 of Executive Order No. 11051, as amended, is further amended to read:

"Sec. 306. *Emergency telecommunications.* The Administrator of General Services shall be responsible for coordinating with the National Security Council in planning for the mobilization of the Nation's telecommunications resources in time of national emergency.".

6-202. Executive Order No. 11490, as amended is further amended by:

(1) substituting "National Security Council" for "Office of Telecommunications Policy (35 FR 6421)" in Section 401(27), and

(2) substituting the number of this Order for "11556" and deleting references to Executive Order No. 10705 in Sections 1802 and 2002(3).

6-203. Executive Order No. 11725, as amended, is further amended by substituting the number and date of this Order for the reference to Executive Order No. 11556 of September 4, 1970 in Section 3(16).

6-204. Executive Orders No. 10705, as amended, No. 11191, as amended, and No. 11556, as amended, are revoked.

6-3. *General.*

6-301. All Executive agencies to which functions are assigned pursuant to this Order shall issue such rules and regulations as may be necessary to carry them out.

6-302. All Executive agencies are authorized and directed to cooperate with the departments and agencies to which functions are assigned pursuant to this Order and to furnish them such information, support and assistance, not inconsistent with law, as they may require in the performance of those functions.

6-303. (a) Nothing in this Order reassigns any function assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended, nor does anything in this Order impair the existing authority of the Administrator of General Services to provide and operate telecommunications services and to prescribe policies and methods of procurement, or impair the policy and oversight roles of the Office of Management and Budget.

(b) In carrying out the functions in this Order, the Secretary of Commerce shall coordinate activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector. Nothing in this Order reassigns any function vested by law in the Federal Communications Commission.

6-304. This Order shall be effective March 26, 1978.

Jimmy Carter

THE WHITE HOUSE,
March 27, 1978.

[FR Doc. 78-8494 Filed 3-28-78; 1:12 pm]

THE WHITE HOUSE

WASHINGTON

19 January 1988

MEMORANDUM FOR THE DOMESTIC POLICY COUNCIL

SUBJECT: National System for Emergency Coordination

Pursuant to Domestic Policy Council meetings on this subject, the President has approved a National System for Emergency Coordination. The system's purpose, principles, activation and operational responsibilities are outlined in the attachment to this memorandum. Department and agency heads are encouraged to ensure that organizations and staff members are prepared to carry out their respective operational responsibilities.

Edwin Meese III

Edwin Meese III
Chairman Pro Tempore

NATIONAL SYSTEM FOR EMERGENCY COORDINATION

Purpose: The National System for Emergency Coordination is a mechanism for ensuring that the Federal Government provides timely, effective, and coordinated assistance to States 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 emergency management systems and capabilities are an integral part of this response system and will be used when possible.

Principles:

(a) The primary responsibility for public health and safety in the event of a domestic emergency resides with the States. For certain extreme emergencies (i.e., those requiring coordinated action by a number of agencies or immediate relief to a widespread area) Federal responses are mandated by statute, or may otherwise be appropriate.

(b) The Federal Government may provide support in life saving and life protecting operations when requested by State or local governments, or when otherwise appropriate. Assistance may be provided directly to a local government in cooperation with the State government.

(c) Federal assistance will ordinarily be provided by Federal regional offices and field elements, such as disaster field offices, located nearest to the crisis site.

(d) The Federal Government's response to major domestic crises will be consistent with current emergency plans, and existing domestic and national security crisis information and management systems will be used.

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 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. If he does, the Cabinet Affairs Office will be responsible for apprising the President of developments and decisions that may be needed.

Operational Responsibilities:

(a) Federal departments and agencies shall respond to potential crises in their respective areas of cognizance.

(b) Federal interagency functional groups.

(1) 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 such as the Plan for Federal Response to a Catastrophic Earthquake. These groups will assess problems, propose solutions, and facilitate resolution of specific emergency functional needs.

(2) Lead agencies have been designated for each functional group on the basis of recognized leadership roles, resources, inherent authorities, and/or relevant expertise.

(3) 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.

(4) Interagency functional groups will be established to facilitate communications, economic affairs, energy, human services, legal and law enforcement, transportation and other functions needed to mitigate the crisis. Leadership and membership are to be based on statutes, Executive Orders, interagency agreements, and logical extensions of normal responsibilities.

(c) The Federal Emergency Management Agency (FEMA) will be prepared to consult with and assist Federal departments and agencies in planning for and responding to all types of emergencies, as listed below.

(d) National Coordinator.

(1) The President may designate a National Coordinator as his representative to coordinate Federal support operations during extreme emergencies.

(2) The National Coordinator would ordinarily be a senior official of a department or agency having assigned responsibilities for the following specified types of emergencies:

Natural disasters..... FEMA

Health or medical..... DHHS

Terrorism..... ..... DOJ
(less airborne hijacking)

Energy..... DOE

Nuclear weapon, reactor,
facility accident..... DOE or DOD ("owner")

Accident at licensed nuclear
power plant..... NRC

Environmental..... EPA
(less some water related incidents but
including chemical plant accidents)

Transportation..... DOT
(including airborne hijacking and
some water related environmental
incidents)

Economic disruption..... TREAS

Telecommunications..... OSTP/NCS

(3) Based on the nature of the crisis, the National Coordinator would determine which interagency functional groups should be activated.

(e) Federal Coordinating Officer.

(1) One or more Federal Coordinating Officers (FCO) may be appointed as the President's on-scene representative(s) when necessary. The FCO would ordinarily be a senior field official of the same Federal department or agency as the National Coordinator, and would be responsible for coordinating the Federal response at the emergency site(s).

(2) FCOs would report to the National Coordinator.

(3) Based on the nature of the crisis, the FCO(s) would determine appropriate regional functional groups to be activated.

(f) State Coordination.

(1) If the President activates the system, the Director of the Federal Emergency Management Agency will notify the Governors of affected States and territories about the Federal Government's plan of action.

(2) The National Coordinator or an FCO may ask the Governor of a State requesting Federal assistance to appoint a State Coordinating Officer to coordinate State and local government response efforts with those of the Federal Government.

(3) States would be expected to interact with FCOs to indicate their need for Federal assistance, and to coordinate the use of Federal assistance.

National Telecommunications Management Structure

The National Telecommunications Management Structure (NTMS) will provide a comprehensive, survivable and enduring management capability for initiating, coordinating, restoring, and reconstituting the Nation's telecommunications resources in the event of a national emergency, including war.

The requirement to develop NTMS originates with E.O. 12472 which directed the Manager, NCS to develop a national telecommunications management infrastructure responsive to national needs, and to establish a joint industry-government National Coordinating Center (NCC) capable of assisting in the management of national security and emergency preparedness (NS/EP) telecommunications under all conditions of crisis or emergency.

A functioning joint industry-government NCC was established in 1984. In 1986 the President's National Security Telecommunications Advisory Committee (NSTAC) established an industry NTMS Task Force chaired by the Office of the Manager, National Communications System (OMNCS), to develop a NTMS Implementation Concept. In 1987 the NCS Committee of Principles (COP) also established a subcommittee to assist in the development of the NTMS Implementation Concept. A NTMS Implementation Concept was developed, approved by the NSTAC and COP in the fall of 1987, and forwarded to the White House. The White House approved the concept in the spring of 1988, a program office was established in OMNCS, and implementation of NTMS is proceeding.

Essentially, the NTMS will provide for an extension of the NCC functional capability into the various regions of the Nation. The plan provides for the establishment of a Regional Coordinating Center (RCC) at certain FEMA Federal Regional Centers (FRC). Each RCC would be supported by government and industry Operating Centers (OC). Each RCC in addition to accomplishing its regional role, would be capable of assuming the functions of the NCC in the event the NCC became inoperable. The RCC's will be staffed by regional government and industry telecommmunications managers. OC's will be staffed by resident government or industry personnel.

Related ongoing activities such as NETS, SHARES, CSI, CNS, MT/T, TSP, etc., will be incorporated into NTMS planning. These capabilities will be integrated into the National Telecommunications Coordinating Network (NTCN) being developed concurrently with NTMS as the network used to support the NTMS.

The NTMS Initial Operating Capability is scheduled for the spring of 1990, for the northeast region of the country.