

to the business operation is a significant factor in determining whether the business option is a joint venture.

(ii) The parties to a joint venture are considered to be affiliated with each other.

(1) *Exclusion from affiliation coverage.* For purposes of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that oth-

erwise complies with the requirements of this section, except that gross revenues derived from gaming activities conducted by affiliated entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

[63 FR 6106, Feb. 6, 1998; 63 FR 10781, Mar. 5, 1998]

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

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PART 201—EXECUTIVE POLICY

Sec.

201.0 Background.

201.1 Authority.

201.2 Definitions.

201.3 Policy.

AUTHORITY: 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349; 3 CFR, 1978 Comp., p. 158); E.O. 12472, April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193); E.O. 12656, November 18, 1988 (53 FR 47491; 3 CFR, 1988 Comp., p. 585).

SOURCE: 55 FR 51056, Dec. 11, 1990, unless otherwise noted.

§201.0 Background.

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

§201.1 Authority.

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

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

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

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

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

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

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

(7) Executive Order 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

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

§201.2 Definitions.

The following definitions apply herein:

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

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

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

(d) *The National Communications System (NCS)* means that organization established by Executive Order 12472 consisting of the telecommunications assets of the entities represented on the NCS Committee of Principals and an administrative structure consisting of

the Executive Agent, the NCS Committee of Principals and the Manager. The NCS Committee of Principals consists of representatives from those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security and emergency preparedness, and, to the extent permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security and emergency preparedness telecommunications capabilities. The NCS is a confederative arrangement in which member Federal agencies participate with their owned and leased telecommunications assets to provide necessary communications services for the Federal Government, under all conditions, including nuclear war.

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

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

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

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

(i) *National Telecommunications Management Structure (NTMS)* means a survivable and enduring management structure which will support the exer-

cise of the war power functions of the President under section 706 of the Communications Act of 1934 (47 U.S.C. 606), as amended.

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

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

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

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

§201.3 Policy.

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

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

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

(2) The Federal Government will rely upon State governments and their telecommunications management organizations for management or control of intrastate carrier services and continuity of interconnectivity with interstate carriers to assure that national objectives and priorities are properly served. Applicable regulations of the Federal Communications Commission govern the extent of the allocation of responsibility between Federal and State authorities for the management of NS/EP intrastate carrier services and the interconnectivity of intrastate services for NS/EP telecommunications functions.

(c) A system of telecommunications service priorities will be established which facilitates the provisioning and early restoration of services considered vital to national interests during those events or crises which warrant NS/EP treatment.

(d) The President is authorized during, or in anticipation of, an emergency or major disaster (as defined in the Disaster Relief Act of 19/4) to establish temporary telecommunications systems and to make such telecommunications available to State and local government officials and such other persons as deemed appropriate (42 U.S.C. 5185).

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

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

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

(f) During an attack on the United States by an aggressor nation, and in an immediate postattack period, all decisions regarding the use of telecommunications resources will be di-

rected to the objective of national survival and recovery. In order to achieve this objective, postattack resources will be assigned to activities concerned with the maintenance and saving of lives, immediate military defense and response, and economic activities essential to continued economic survival and recovery.

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

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

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

PART 202—NATIONAL SECURITY AND EMERGENCY PREPAREDNESS PLANNING AND EXECUTION

Sec.

202.0 Objectives.

202.1 Policies.

202.2 Criteria and guidance.

202.3 Plans preparation and execution.

AUTHORITY: 61 Stat. 496 (50 U.S.C. 401); 64 Stat. 798 (50 U.S.C. app. 2061); 64 Stat. 1245 (50 U.S.C. app. 2251); 90 Stat. 463 (42 U.S.C. 6611); E.O. 12046, March 27, 1978 (43 FR 13349); 3 CFR, 1978 Comp., p. 158; E.O. 11021, May 7, 1962 (27 FR 4409); 3 CFR, 1959-1963 Comp., p. 600; E.O. 12472, April 3, 1984 (49 FR 13471); 3 CFR, 1984 Comp., p. 193.

SOURCE: 55 FR 51058, Dec. 11, 1990, unless otherwise noted.

§202.0 Objectives.

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

persons deemed appropriate by the President.

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

(1) Legal authority for telecommunications management.

(2) A control mechanism to manage the initiation, coordination and restoration of telecommunications services.

(3) Procedures to ensure timely damage assessment and allocation of residual resources and controlled restoration of services based on national policy/direction.

(4) The capability to execute a telecommunications recovery plan based on national policy/guidance.

(c) Notwithstanding any provision regarding NS/EP Planning and Execution, nothing in this part shall be deemed to affect the authorities or responsibilities of the Director of the Office of Management and Budget, or any Office or official thereof; or reassign any function assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended, or under any other law, or any function vested by law in the Federal Communications Commission.

§202.1 Policies.

(a) The telecommunications resources of the Nation will be available for government use during crises and emergencies, wartime and non-war-

time, and to satisfy the needs of the public welfare and safety.

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

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

(d) In wartime emergencies, facilities management will remain decentralized to the extent feasible to assure continued flexibility of operational response to critical needs, subject to the management direction and overriding authority of those officials delegated to act for and with the consent of the central point of authority within the Federal Government.

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

(2) Facilities other than those of the Federal Government, with the exception of radio stations in the Aviation Services and certain classes of radio stations in the Maritime Services, will be managed by the authorized common carrier or other person owning and operating such facilities subject to Federal Communications Commission (FCC) guidance and direction or in accordance with State or local plans if not subject to FCC jurisdiction.

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

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

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

(g) Section 706 of the Communications Act of 1934, as amended, confers authority to the President in the matter of suspension of all rules and regulations pertaining to the use and operation of telecommunications facilities, public or private during wartime emergencies.

§202.2 Criteria and guidance.

NS/EP planning in government and industry with respect to effective conservation and use of surviving telecommunications resources in a disaster, emergency or postattack period must provide for orderly and uninhibited restoration of services by the carriers and authoritative control of services allocation which will assure that priority will be afforded the most critical needs of government and the private sector with respect to these objectives.

(a) The preservation of the integrity of characteristics and capabilities of the Nation's telecommunications systems and networks during wartime or

non-wartime emergencies is of the utmost importance. This can best be accomplished by centralized policy development, planning, and broad direction. Detailed operations management will remain decentralized in order to retain flexibility in the use of individual systems in responding to the needs of national security, survival and recovery. Each Federal agency responsible for telecommunications systems operations, and the carriers, are responsible for planning with respect to emergency operations. Guidance in this matter has been issued from a number of sources and contained in:

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

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

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

(b) The continuity of essential communications services will be maintained through the use of controls and operational procedures to assure that priority is given to vital services. NS/EP telecommunications services entail policies, procedures and responsibilities as described in parts 211 and 213 of this chapter.

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

§202.3 Plans preparation and execution.

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

(a) **Wartime Emergency Functions.** (1) The Assistant to the President for National Security Affairs (the National Security Advisor) shall provide general policy direction for the exercise of the war power functions of the President under section 706 of the Communications Act (47 U.S.C. 606), as amended, should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601).

(2) The Director of the Office of Science and Technology Policy shall direct the exercise of the war power functions of the President under section 706(a), (c)–(e) of the Communications Act (47 U.S.C. 606), as amended, should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601).

(b) **Non-wartime Emergency Functions.** (1) The National Security Advisor shall:

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

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

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

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

(ii) Establish a Joint Telecommunications Resources Board (JTRB) to assist the Director in providing information, advice, guidance and assistance, as appropriate, to the President and to

those Federal Departments and agencies with responsibilities for the provision, management, or allocation of telecommunications resources, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law.

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

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

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

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

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

(i) Advise and assist the President in the administration of a system of radio spectrum priorities for those spectrum dependent telecommunications resources of the Federal government which support national security and emergency preparedness telecommunications functions.

(ii) Certify or approve priorities for radio spectrum use by the Federal government, including the resolution of any conflicts in or among priorities under all conditions or crisis or emergency.

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

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

the NCS, will prescribe general guidelines and procedures for reviewing the financing of the NCS within the budgetary process and for preparation of budget estimates by participating agencies.

(d) Performance of essential government and public services during a national emergency, as defined in section 706 of the Communications Act (47 U.S.C. 606), as amended, will require a means for communications between government and the private sector, communications essential to operations of elements of the national economy, and communications for national defense and civil defense purposes. The needs of the private sector and those of government should be properly coordinated to ensure that responses to each of these communities of interest, government and private sector, are appropriately balanced. For this reason, with regard to wartime emergency functions, the Director, Office of Science and Technology Policy (OSTP), has delegated the responsibility for the private sector to the Chairman, Federal Communications Commission (FCC), and responsibility for the needs of government to the Executive Agent, National Communications System (NCS). A parity of level of authority of these officials is established. They will coordinate and negotiate telecommunications conflicts with respect to the allocation and use of the Nation's telecommunications resources, reporting to the Director on unresolved issues which are within the domain of their respective responsibilities and authorities.

(e) In order to support the NS/EP telecommunications needs of the Federal government, State and local governments, private industry and volunteer organizations, under all circumstances, including those of crisis or emergency, the following functions shall be performed:

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

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

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

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

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

(ii) Advise and assist State and local governments and volunteer organizations, upon request and to the extent consistent with law, in developing plans and procedures for identifying and satisfying their NS/EP telecommunications requirements.

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

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

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

(3) The Secretary of State, in accordance with assigned responsibilities within the Diplomatic Telecommunications Service, shall plan for and provide, operate and maintain rapid, reliable and secure telecommunications services to those Federal entities represented at United States diplomatic missions and consular offices overseas.

This responsibility shall include the provision and operation of domestic telecommunications in support of assigned national security and emergency preparedness responsibilities.

(4) The Secretary of Defense shall:

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

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

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

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

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

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

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

the Director of the Office of Management and Budget.

(8) The Secretary of the Interior shall develop and execute emergency plans with respect to the administration of telecommunications activities in the territorial and trusteeship areas under the jurisdiction of the United States and within the responsibility previously assigned to him by appropriate laws and other authority.

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

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

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

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

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

(10) The National Communications System (comprised of the Executive Agent for the NCS, the NCS Committee of Principals, and the Manager, NCS) shall assist the President, the Director of the Office of Science and Technology Policy, National Security Advisor and

the Director of the Office of Management and Budget in the exercise of national security and emergency preparedness telecommunications functions and responsibilities and in the coordination of the planning for and provision of national security and emergency preparedness communications for the Federal government under all circumstances, including crisis or emergency, attack, recovery and reconstitution.

(11) The Executive Agent for the NCS shall:

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

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

(12) The Manager, NCS shall:

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

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

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

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

(D) Test and exercise programs and procedures for the evaluation of the capability of the Nation's telecommunications resources to meet national security and emergency preparedness telecommunications requirements.

(E) Alternative mechanisms for funding, through the budget review process, NS/EP telecommunications initiatives

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

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

(iii) Implement, with the assistance of appropriate Federal agencies, a decentralized National Telecommunications Management Structure (NTMS) capable of functioning independently in support of appropriate authority within the terms and guidelines delineated in the White House approved Implementation Concept.

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

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

(13) The NCS Committee of Principals shall:

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

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

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

(14) All Federal departments and agencies shall:

(i) Prepare policies, plans and procedures concerning telecommunications facilities, services, or equipment under their management or operational control to maximize their capability to respond to the national security and emergency preparedness needs of the Federal Government. Such plans will be prepared, and the operations will be executed, in conjunction with the emergency management activities of the Federal Emergency Management Agency, and in regular consultation with the Executive Agent for the NCS and the NCS Committee of Principals.

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

PART 211—EMERGENCY RESTORATION PRIORITY PROCEDURES FOR TELECOMMUNICATIONS SERVICES

Sec.

211.0 Purpose.

211.1 Authority.

211.2 Definitions.

211.3 Scope and coverage.

211.4 Policy.

211.5 Priorities.

211.6 Submission and processing of restoration priority requests.

211.7 Obligation of carriers.

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

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

§211.0 Purpose.

This part establishes policies and procedures under which government

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

§211.1 Authority.

(a) Authority to direct priorities for the restoration of communications services in national emergencies is vested in the President, including authority conferred by section 103 of the National Security Act of 1947, as amended (50 U.S.C. 404), section 101 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2070), section 201 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281), section 1 of Reorganization Plan No. 1 of 1958, as amended (3 CFR, 1954–1958 Comp., p. 447), and section 606 of the Federal Communications Act of 1934, as amended. (47 U.S.C. 606).

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

§ 211.2 Definitions.

The following definitions apply herein—

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

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

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

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

(e) *Restoration* means the recommencement of service by patching, rerouting, substitution of component parts, and other means, as determined necessary by a carrier.

(f) *Government* means Federal, foreign, State, county, municipal, and other local government agencies. Specific qualifications will be supplied whenever reference to a particular level of government is intended, e.g., *Federal Government*, *State government*. *Foreign Government* includes coalitions of governments secured by treaty, including NATO, SEATO, OAS, UN, and associations of governments or government agencies, including the Pan American Union, International Postal Union, and International Monetary Fund. *Quasi-government* includes eleemosynary relief organizations, such as the Red Cross organizations.

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

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

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

§ 211.3 Scope and coverage.

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

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

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

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

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

(5) Federal Government-owned and leased circuits.

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

§ 211.4 Policy.

During the continuance of a war in which the United States is engaged and when the provisions of this part are invoked, all communications common carriers shall comply with the following principles insofar as possible:

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

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

(c) When public correspondence circuits are needed to satisfy requirements for priority services, idle circuits will be selected first. A minimum

number of public correspondence circuits shall at all times be kept available so as to provide for the transmission of precedence-type messages and calls.

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

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

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

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

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

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

§ 211.5 Priorities.

There are hereby established four levels of restoration priority. Within each level, subpriorities may be established by the Executive Agent, with the concurrence of the National Security Council, for both government and nongovernment services. The subpriorities categories currently in use, which

have been established by the Executive Agent will remain in effect until modified. Compatibility of subcategories applicable to government and nongovernment users is essential to achieve the objective of a single restoration priority system.

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

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

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

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

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

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

(b) *Priority 2.* Priority 2 shall be the second highest level of restoration priority, and shall be afforded only to Federal and Foreign Government private line services, and to Industrial/Commercial services which are designated for prearranged voluntary participation with the Federal Government in a national emergency. Circuit requirements in this level shall be limited to those essential, at a time when nuclear attack threatens, to maintain an optimum defense posture and to give civil alert to the U.S. population. These are circuit requirements whose unavailability would present serious dangers:

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

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

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

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

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

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

(1) Insure performance of critical logistic functions, public utility services, and administrative-military support functions;

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

(3) Secure and disseminate urgent intelligence;

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

(5) Provide for critical damage control functions;

(6) Provide for hospitalization;

(7) Continue critical Government functions;

(8) Provide transportation for the foregoing activities.

(d) *Priority 4.* Priority shall be the fourth highest restoration priority and shall be afforded to government, quasi-government, and Industrial/Commercial private line services: *Provided, however,* That Priority 4 will be afforded circuits serving Industrial/Commercial, State, county, municipal, and quasi-state and local government agen-

cies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service is involved) will be manned continually, or where such circuits are automated and will be under constant surveillance from a remote location. Circuit requirements in this level shall be limited to those necessary for the maintenance of the public welfare and the national economy in a situation short of nuclear attack, or during reconstitution after attack. These include circuit requirements needed to continue the more important financial, economic, health, and safety activities of the Nation.

§211.6 Submission and processing of restoration priority requests.

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

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

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

(d) Requests for restoration priority assignments made by Foreign Government agencies, except for NATO, NATO national military authority, and such other requests as the Executive Agent may be designated, will be submitted to the Department of State for initial

§ 211.7

evaluation and review. The Department will forward to the Executive Agent for processing and approval such of these requests as it finds acceptable.

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

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

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

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

§ 211.7 Obligation of carriers.

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

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

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

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

(3) Notify the Executive Agent of foreign correspondent procedures affecting Federal Government services that

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are not reasonably consistent with the priority requirements of this part.

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

Sec.

212.0 Authority.

212.1 Purpose.

212.2 Scope.

212.3 Responsibilities.

212.4 Other requirements.

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

SOURCE: 55 FR 51061, Dec. 11, 1990, unless otherwise noted.

§ 212.0 Authority.

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

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

§ 212.1 Purpose.

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

§ 212.2 Scope.

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

§ 212.3 Responsibilities.

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

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

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

§ 212.4 Other requirements.

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

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

PART 213—GOVERNMENT AND PUBLIC CORRESPONDENCE TELECOMMUNICATIONS PRECEDENCE SYSTEM

- Sec.
- 213.0 Authority.
- 213.1 Background and purpose.

- 213.2 Scope.
- 213.3 Cancellation.
- 213.4 Definitions.
- 213.5 Precedence designators.
- 213.6 Criteria.
- 213.7 Policies.
- 213.8 Implementation.

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

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

§ 213.0 Authority.

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

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

§ 213.1 Background and purpose.

(a) The National Security Council and the Federal Communications Commission have agreed upon a precedence system for the expeditious handling of messages and calls transmitted over Government and public correspondence facilities in all types of situations from peacetime to massive nuclear attack. Effectuation of that system requires that the Director issue a circular and that the Commission concurrently issue an order prescribing the standards, procedures, policies, and regulations that together, constitute this single integrated precedence system.

(b) In conformity with that agreement the National Security Council is issuing this circular the purpose of

which is to prescribe, on behalf of the President, that part of those standards, procedures, policies, and regulations which are within the cognizance of the NSC. No significance should be attached to the fact that slightly different terms are used in their circular from those used in the companion order of the FCC. Those differences result from differences in terms in the basic legal authorities of the director and the Commission rather than from an intent to denote a distinction in purpose or effect.

§213.2 Scope.

The precedence system contained herein is applicable to:

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

§213.3 Cancellation.

This circular cancels:

- (a) Attachments A and B to Annex 3 of DMO 3000.1, dated November 8, 1963 (28 FR 12273).
- (b) That portion of the memorandum of the Special Assistant to the President for Telecommunications, dated August 27, 1964, pertaining to message precedences.

§213.4 Definitions.

As used herein:

- (a) Public correspondence services means those services offered to the general public for communications between all points served by a carrier or by interconnected carriers on a non-exclusive message by message or call by call basis, as differentiated from leased private line services.
- (b) The term *precedence* means the order in which messages and calls are processed. Transmission of information and call completion is therefore to be accomplished in the order required by the precedence designator. Any such properly categorized communications precede noncategorized communications.

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

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

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

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

§213.5 Precedence designators.

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

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

(b) Government and non-Government users of public correspondence services will handle their international messages in accordance with current ITU Telegraph Regulations. Government users should note that, generally, the only precedence designator available for their use for international messages sent over public correspondence circuits is *Etat Priorite*. The ITU Regulations do not contain precedence designators which equate to Flash, Immediate, or Priority. Accordingly, Government messages whether Flash, Immediate, or Priority precedence when sent over international public correspondence circuits will be handled as *Etat Priorite* messages. Thus, Priority messages will receive the same treatment in transmission and processing as

Immediate or Flash messages. Conversely, Etat Priorite messages received in the United States shall be transmitted and processed in the order of receipt, to the extent possible. The precedence designator available for non-Government users of public correspondence services is Urgent. The Urgent designator is limited for use only during wartime conditions, as declared pursuant to section 606 of the Communications Act of 1934.

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

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

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

§213.6 Criteria.

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

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

clear the channel for the Flash or Flash Emergency transmission. Flash or Flash Emergency precedence shall be reserved for calls and messages having an immediate bearing on:

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

(ii) Critical intelligence essential to national survival.

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

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

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

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

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

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

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

(2) Reconstitution of forces in a post-attack period.

(3) Intelligence essential to national security.

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

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

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

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

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

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

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

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

(2) Air-ground integrated operations.

(3) Important intelligence.

(4) Important diplomatic information.

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

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

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

(8) Major civil aircraft accidents.

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

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

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

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

(13) Preparations for adequate hospitalization.

(14) Continuity of critical Government functions.

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

(16) Continuing or reestablishing our more important financial, economic, health, and safety activities. Producing, procuring, and distributing food materials and supplies which are con-

sidered necessary to the immediate support of a war effort, the national defense, or for expediting the means of meeting the effects of natural disasters.

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

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

§ 213.7 Policies.

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

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

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

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

Immediate Emergency, or Priority Emergency call, whichever the case may be.

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

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

(g) It is essential to provide public message and call capability for the transmission of military, governmental, and essential non-Government precedence messages and calls. Private line services for military, governmental, and other essential users are protected under a Priority System for Intercity Private Line Services promulgated by the FCC (FCC Order 67-51) and the National Security Council. However, during national emergencies, military, governmental, and other essential users will have additional requirements for prompt completion of precedence traffic over public correspondence communication common carrier facilities. Therefore, notwithstanding the provisions of the above-described Priority System for Intercity Private Line Services, communication common carriers shall have available a minimum number of public correspondence circuits at all times so as to provide for the transmission of precedence type messages and calls. Normally, the communication common carriers shall use their judgment in determining this number of circuits required for public correspondence precedence traffic. However, the authority is reserved to the National Security Council or the Federal Communications Commission, as appropriate to the time and situation, to revise the decisions of the carriers respecting the allocation of circuits, and to resolve any questions which are referred to them by the carriers or the users.

§213.8 Implementation.

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

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

Sec.

214.0 Authority.

214.1 Purpose.

214.2 Scope.

214.3 Assumptions.

214.4 Planned actions.

214.5 Responsibilities.

214.6 Postattack procedures and actions.

AUTHORITY: 84 Stat. 2083 and E.O. 12472, April 3, 1984, (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

SOURCE: 55 FR 51062, Dec. 11, 1990, unless otherwise noted.

§214.0 Authority.

The provisions of this part 214 are issued pursuant to Reorganization Plan No. 1 of 1977, 42 FR 56101, 91 Stat. 1633, as amended (5 U.S.C. appendix) and Executive Order 12472. This part 214 replaces Annex 1 of DMO 3000.1, dated November 8, 1963, 28 FR 12273.

§214.1 Purpose.

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

§214.2 Scope.

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

§ 214.3 Assumptions.

When the provisions of this part become operative, Presidential emergency authority, including Executive Order 12656, 12472, 12046 (3 CFR, 1966–1970 Comp., p. 820), and other emergency plans regarding the allocation and use of national resources will be in effect. During an attack, and in a postattack period, the Director, OSTP, will have authority to make new or revised assignments of radio frequencies in accordance with authority delegated by the President.

§ 214.4 Planned actions.

(a) Whenever it is determined necessary to exercise, in whole or in part, the President's emergency authority over telecommunications, the Director, OSTP, will exercise that authority as specified in Executive Order 12472 (49 FR 13471; 3 CFR, 1984 Comp., p. 193).

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

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

(2) Redelegate to the Secretary of Defense the authority necessary to control the use of the radio spectrum in areas of active combat, where such control is necessary to the support of U.S. military operations;

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

§ 214.5 Responsibilities.

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

(b) The FCC, in coordination with NTIA, shall issue appropriate rules, regulations, orders, and instructions and take such other actions not incon-

sistent with the actions of the Director, OSTP, and the NTIA Emergency Readiness Plan for Use of the Radio Spectrum as may be necessary to ensure the effective use of those portions of the radio spectrum shared by Government and non-government users.

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

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

§ 214.6 Postattack procedures and actions.

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

(b) Government agencies having need for new radio frequency assignments or for modification of existing assignments involving a change in the frequency usage pattern shall, unless otherwise provided, submit applications therefor to the Director, OSTP, by whatever means of communication are available and appropriate, together with a statement of any preapplication coordination accomplished. The Director, OSTP, will review such applications accomplish the necessary additional coordination insofar as practicable, consider all pertinent views and comments, and grant or deny, as he shall determine, the assignment of such frequencies. All concerned will be informed promptly of his decisions.

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

(d) All changes of radio frequency usage within U.S. military theaters of operation will be coordinated with the Director, OSTP, where harmful interference is likely to be caused to stations authorized to operate within the United States and its possessions.

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

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

(2) Accomplish such coordination as appropriate and possible;

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

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

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

Sec.

215.0 Purpose and authority.

215.1 Background.

215.2 Assignment of responsibilities.

AUTHORITY: 84 Stat. 2083, and E.O. 12472, April 3, 1984 (49 FR 13471 *et seq.*).

SOURCE: 55 FR 51063, Dec. 11, 1990, unless otherwise noted.

§215.0 Purpose and authority.

The purpose of this part is to designate a focal point within the Federal Government for electromagnetic pulse (EMP) information concerning telecommunications. It is issued pursuant to the authority of Reorganization Plan No. 1 of 1977, 42 FR 56101, 91 Stat. 1633, as amended (5 U.S.C. appendix), Executive Order 12472, (49 FR 13471; 3 CFR, 1984 Comp., p. 193), "Assignment of National Security and Emergency Preparedness Telecommunications, April 3, 1984 and Executive Order 12046, 43 FR 13349, "Relating to the Transfer of Telecommunications Functions," May 27, 1978, as amended by Executive Order 12472.

§215.1 Background.

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

(b) The Defense Nuclear Agency (DNA) is the overall technical coordinator for the Army, Navy, Air Force, and DOE laboratories on matters concerning nuclear weapons, nuclear weapons effects, and nuclear weapons testing. It acts as the focal point between the service laboratories and other agencies. The National Communications System (NCS), with the Defense Communications Agency (DCA), maintains a data base for telecommunications. DCA also provides the primary capability for the NCS to conduct telecommunications survivability studies for civil and military departments and agencies.

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

§215.2 Assignment of responsibilities.

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

PART 216—NATIONAL COMMUNICATIONS SYSTEM ISSUANCE SYSTEM

Sec.

216.1 NCS Directives.

216.2 Publication of Directives.

APPENDIX TO PART 216—NCS DIRECTIVES

§216.1

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

§216.1 NCS Directives.

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

[55 FR 51063, Dec. 11, 1990]

§216.2 Publication of Directives.

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

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

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

[55 FR 51063, Dec. 11, 1990]

APPENDIX TO PART 216—NCS DIRECTIVES

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

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

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

47 CFR Ch. II (10-1-98 Edition)

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

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

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

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

[NCS DIRECTIVE 1-1]

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

November 30, 1987.

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

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

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

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

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

6. *Definitions.*

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

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

c. *NCS Issuances.* Documents (i.e., NCS directives, circulars, manuals, handbooks, and notices; and Office of the Manager, NCS (OMNCS) office orders), generally of referential value and broad distribution, that implement, establish, guide, describe, or explain

organizational responsibilities, authorities, policies, and procedures. Appendix B¹ provides abbreviated descriptions of types of issuances.

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

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

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

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

ecutive entities. Handbooks remain in effect until superseded or cancelled.

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

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

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

8. *Responsibilities*.

a. NCS member organizations:

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

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

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

b. The NCS Committee of Principals and Executive Agent:

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

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

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

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

c. The Manager, NCS:

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

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

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

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

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

9. *Delegations of Authority.*

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

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

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

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

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

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

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

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

2 Appendices²

A. Executive Order No. 12472

Director, Office of Science and Technology Policy.

Dated: November 30, 1987.

Director, Office of Management and Budget.

Dated: November 17, 1987.

Assistant to the President for National Security Affairs.

Dated: September 18, 1987.

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

[NCS DIRECTIVE 1-2]

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

November 30, 1987.

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

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

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

4. *References.*

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

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

EDITORIAL NOTES:

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

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

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

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

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

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

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

5. *Cancellation.* NCS Memorandum 2-63, "Approval of Initial NCS Tasks 1 and 2," December 13, 1963; and NCS Memorandum 2-64, "Additional Networks Approval for Inclusion in the National Communications System," December 11, 1964, are hereby cancelled.

6. *Definitions.*

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

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

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

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

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

10. *Responsibilities.*

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

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

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

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

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

(1) May participate as desired in Committee activities.

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

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

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

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

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

Director, Office of Science and Technology Policy.

Dated: November 30, 1987.

Director, Office of Management and Budget.

Dated: November 17, 1987.

Assistant to the President for National Security Affairs.

Dated: September 18, 1987.

[NCS DIRECTIVE 2-1]

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

September 30, 1988.

1. *Purpose.* This directive establishes the interagency process by which unified planning is conducted within the National Communications System (NCS) to ensure the coordinated development of a responsive and

survivable national telecommunications infrastructure to meet the NSEP telecommunications needs of the Federal Government.

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

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

4. *References.*

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

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

c. "National Security Emergency Preparedness (NSEP) Telecommunications Planning Process," March 27, 1986, NCS 326/8.¹

d. White House Memorandum, "National Communications System (NSEP) Telecommunications Planning Process," October 11, 1986, (appendix).²

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

6. *Definitions.*

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

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

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

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

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

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

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

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

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

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

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

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

8. *Responsibilities.*

a. Executive Office of the President (EOP).

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

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

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

(c) Review and validate Capability Objectives;

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

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

(2) In addition, the OSTP will also:

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

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

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

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

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

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

b. The Executive Agent, NCS, will:

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

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

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

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

c. Individual NCS member organizations* will:

(1) Identify their essential emergency functions (EEFs) and NSEP telecommunications needs and requirements;

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

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

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

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

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

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

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

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

e. The Manager, NCS, will:

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

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

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

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

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

(6) Obtain the NSEP telecommunications recommendations of the U.S. telecommunications industry through the National Security Telecommunications Advisory Committee (NSTAC).

9. *Procedures.*

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

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

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

transmitted with NCS COP and Executive Agent recommendations to the NSC, OSTP, and OMB for validation.

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

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

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

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

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

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

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

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

Appendix:

White House Memorandum, October 11, 1986⁴

Director, Office of Science and Technology Policy.

Dated: January 27, 1989.

Director, Office of Management and Budget.

Dated: January 19, 1989.

Assistant to the President for National Security Affairs.

Dated: January 19, 1989.

⁴EDITORIAL NOTE: See §216.2(c), and the note following the table of contents for the appendix to part 216.

[NCS DIRECTIVE 2-2]

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

November 30, 1987.

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

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

3. *Authority.* This directive is issued under the authority of Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984), Section 2(e), and NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987.

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

5. *References.*

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

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

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

6. *Definitions.*

a. *Shared Funding.* The pro rata distribution among NCS member organizations of the implementation and recurring costs of

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

approved national level NSEP telecommunications programs on the basis of each organization's NSEP telecommunications requirements.

b. NSEP Telecommunications Requirements. Initially, those telecommunications requirements identified by NCS member organizations as part of the NSEP Telecommunications Requirements Analysis directed by the Executive Office of the President. Alternative methods for determining requirements may be used, subject to approval as prescribed in Executive Order No. 12472, section 2(c)(4).

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

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

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

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

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

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

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

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

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

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

7. Responsibilities.

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

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

c. The Manager, NCS, will:

(1) Negotiate and execute NLP Funding Memoranda of Agreement and Interagency Funding Agreements with those NCS member organizations required to share the costs of approved national level NSEP telecommunications programs, and

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

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

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

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

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

8. Procedures.

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

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

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

(2) An Interagency Funding Agreement that outlines the scope of work to be undertaken as part of the NLP, the associated period of performance, the estimated maximum costs, and procedures for submission of vouchers for transfers between appropriated

funds. This agreement, which does not constitute an obligation of funds, shall be executed by August 31 each year to provide for the payment of NLP funds for the following fiscal year.

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

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

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

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

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

2 Appendices

A. NSDD 201, December 17, 1985²

B. Model NLP MOA

Director, Office of Management and Budget.

Dated: November 17, 1987.

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

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

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

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

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

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

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

To implement the provisions of Executive Order No. 12472, the President directed in National Security Decision Directive (NSDD) 201, that "implementation and recurring costs for national level NSEP telecommunications programs (i.e., those which benefit multiple Federal departments, agencies or entities) shall be shared on a pro rata basis determined by each organization's share of NSEP telecommunications requirements." The Director, OMB, subsequently instructed the NCS member organizations to work with the Manager, NCS, to develop the necessary agreements for the payment of member funds to the Office of the Manager, NCS (OMNCS).

4.0 Responsibilities

4.1 *The Office of the Manager, NCS, shall:*

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

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

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

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

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

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

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

4.2 The (*name of NCS member organization*) will:

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

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

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

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

(*Signature*)

(Name of Manager, NCS)

(Title of Manager, NCS)

Date:

(*Signature*)

(Name of Authorized Official)

(Title of Authorized Official)

(Name of NCS Organization)

Date:

[NCS DIRECTIVE 3-1]

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

July 5, 1990.

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

2. *Applicability*.

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

b. This directive applies to NSEP telecommunication services:

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

(2) Which were assigned restoration priorities under the provisions of 47 CFR part 64, appendix A, "Priority System for the Restoration of Common Carrier Provided Inter-

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

3. *Authority*. This directive is issued under the authority of section 706 of the Communications Act of 1934, *as amended* (47 U.S.C. 606); Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984); NCS Directive 1-1, "National Communications System (NCS) Issuance System," November 30, 1987; and 47 CFR part 64, appendix A, "Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)."

4. *References*.

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

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

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

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

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

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

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

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

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

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

6. *Definitions*. See appendix.

¹ EDITORIAL NOTE: See §216.2(c).

7. *Scope of the NSEP TSP System.*

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

(1) Common carrier services which are:

(a) Interstate or foreign telecommunication services.

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

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

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

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

c. *Other Services.* The NSEP TSP System may apply, at the discretion of and upon special arrangements by the entities involved, to authorize priority treatment to the following telecommunication services:

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

(2) Portions of U.S. international services which are provided by foreign correspondents. (Subject to pertinent law, including references 4a, 4c, and 4f, U.S. telecommunication service vendors are encouraged to en-

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

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

8. *Policy.* The NSEP TSP System is the regulatory, administrative, and operational system authorizing and providing for priority treatment (i.e., provisioning, and restoration) of NSEP telecommunication services (see definition in appendix). As such, it establishes the framework for NSEP telecommunication service vendors to provision, restore, or otherwise act on a priority basis to ensure effective NSEP telecommunication services. The NSEP TSP System allows the assignment of priority levels to any NSEP service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. All requests for priority level assignments will be processed through the Manager, NCS. Although priority levels normally will be assigned by the Manager, NCS, and retained by service vendors, only for the current time period, they may also be preassigned for the other two time periods at the request of service users who are able to identify and justify, in advance, their wartime or post-attack NSEP telecommunication requirements. Absent such preassigned priority levels for the Attack/War and Post-Attack/Recovery periods, priority level assignments for the Peacetime/Crisis/Mobilization period will remain in effect. At all times, priority level assignments will be subject to revision by the Federal Communications Commission (FCC); or, on an interim basis, the Director, Office of Science and Technology Policy (OSTP); and the Manager, NCS, based upon changing NSEP needs. No other system of

telecommunication service priorities which conflicts with the NSEP TSP System is authorized.

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

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

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

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

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

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

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

10. *Responsibilities.*

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

(1) Provide regulatory oversight of implementation of the NSEP TSP System.

(2) Enforce NSEP TSP System rules and regulations which are contained in 47, CFR, part 64.

(3) Act as final authority for approval, revision, or disapproval of priority actions by the Manager, NCS, and adjudicate disputes regarding either priority actions or denials of requests for priority actions by the Manager, NCS, until superseded by the President's war emergency powers under section 706 of the Communications Act.

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

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

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

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

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

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

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

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

(a) Receiving, processing, and evaluating requests for priority actions from service users, or sponsoring Federal government organizations on behalf of service users (e.g., Departments of State or Defense on behalf of foreign governments, Federal Emergency Management Agency on behalf of state and

local governments, and any Federal organization on behalf of private industry entities). Action on such requests will be completed within 30 days of receipt.

(b) Assigning, revising, revalidating, or revoking priority levels as necessary or upon request of service users concerned, and denying requests for priority actions as necessary, using paragraph 16 of this directive. Under circumstances short of exercise of Presidential war emergency powers under section 706 of the Communications Act and time permitting, coordinate such changes in priority level assignments in advance with requesting and/or affected parties. Action on such requests will be completed within 30 days of receipt.

(c) Maintaining data on priority level assignments.

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

(e) Periodically initiating reconciliation.

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

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

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

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

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

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

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

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

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

(iv) Any existing or developing problem.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

h. *Federal Organizations.* Federal organizations will:

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

(2) Provision and restore government-provided services (which are interconnected with commercially provided services assigned a priority level pursuant to paragraph 13 of this directive) in accordance with NSEP TSP System rules and regulations. (See paragraph 7a(2) of this directive.)

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

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

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

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

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

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

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

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

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

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

(8) Upon termination of services that are assigned priority levels, or circumstances

warranting revisions in priority level assignment (e.g., expansion of service), request and justify revocation or revision.

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

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

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

11. *Preemption of Existing Services.* When necessary to provision or restore NSEP services, service vendors may preempt services they provide as specified below. "User," as used in this section, means any user of a telecommunications service, to include both NSEP and non-NSEP services. Prior consent by a preempted user is not required.

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

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

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

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

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

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

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

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

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

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

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

b. *Use of Priority Level Assignments.*

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

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

(3) Service vendors shall accept priority levels and/or revisions only after assignment by the Manager, NCS. (NOTE: Service vendors acting as prime contractors for NSEP services will accept assigned NSEP priority levels only when they are accompanied by the Manager, NCS designated service identifica-

tion (i.e., TSP Authorization Code). However, service vendors are authorized to accept priority levels and/or revisions from users and contracting activities before assignment by the Manager, NCS when service vendors, users, and contracting activities are unable to communicate with either the FCC, Director, OSTP, or the Manager, NCS. Processing of Emergency NSEP service requests will not be delayed for verification purposes.

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

14. *Resubmission of Circuits Presently Assigned Restoration Priorities.* All circuits assigned restoration priorities must be reviewed for eligibility for initial restoration priority level assignment under the provisions of this directive. Circuits assigned restoration priorities, and for which restoration priority level assignments are requested under paragraph 12 of this directive, will be resubmitted to the Manager, NCS. To resubmit such circuits, service users will comply with applicable provisions of paragraphs 10i and 13 of this directive.

15. *Appeal.* Service users or sponsoring Federal organizations may appeal any priority level assignment, denial, revision, revocation, approval, or disapproval to the Manager, NCS within 30 days of notification to the service user. The appellant must use the form and format required by the Manager, NCS and must serve the FCC with a copy of its appeal. The Manager, NCS will act on the appeal within 90 days of receipt. Service users and sponsoring Federal organizations may only then appeal directly to the FCC. Such FCC appeal must be filed within 30 days of notification of the Manager, NCS' decision on appeal. Additionally, the Manager, NCS

may appeal any FCC revisions, approvals or disapprovals to the FCC. All appeals to the FCC must be submitted using the form or format required. The party filing its appeal with the FCC must include factual details supporting its claim and must serve a copy on the Manager, NCS and any other party directly involved. Such party may file a response within 20 days, and replies may be filed within 10 days thereafter. The Commission will not issue public notices of such submissions. The Commission will provide notice of its decision to the parties of record. Any appeals to the Manager, NCS that include a claim of new information that has not been presented before for consideration may be submitted at any time.

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

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

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

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

(3) The NSEP TSP System allows the assignment of priority levels to any NSEP telecommunications service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. Priority levels will normally be assigned only for the first time period. These assigned priority levels will apply through the onset of any attack, but it is expected that they would later be revised by surviving authorized telecommunication resource managers within the Executive Office of the President based upon specific facts and circumstances arising during the Attack/War and Post-Attack/Recovery time periods.

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

(5) The following paragraphs provide a detailed explanation of the categories, subcat-

egories, criteria, and priority level assignments, beginning with the Emergency NSEP category.

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

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

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

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

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

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

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

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

(g) A request from an official authorized pursuant to the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.* and 18 U.S.C. 2511, 2518, 2519).

(2) Priority Level Assignment.

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

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

(c) For restoration, Emergency NSEP services may be assigned priority levels under the provisions applicable to Essential NSEP services (see paragraph 16.c.). Emergency NSEP services not otherwise qualifying for restoration priority level assignment as Essential NSEP may be assigned a restoration priority level "5" for a 30-day period. Such 30-day restoration priority level assignments will be revoked automatically unless extended for another 30-day period. A notice of

any such revocation will be sent to service vendors.

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

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

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

(i) Critical orderwire, or control service, supporting other NSEP functions.

(ii) Presidential communications service critical to continuity of government and national leadership during crisis situations.

(iii) National Command Authority communications service for military command and control critical to National survival.

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

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

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

(2) National Security Posture and U.S. Population Attack Warning. This sub-

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

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

(i) Threat assessment and attack warning.

(ii) Conduct of diplomacy.

(iii) Collection, processing, and dissemination of intelligence.

(iv) Command and control of military forces.

(v) Military mobilization.

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

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

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

(ix) National space operations.

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

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

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

(i) Population warning (other than attack warning).

(ii) Law enforcement.

(iii) Continuity of critical state and local government functions (other than support of the Federal government during and after national emergencies).

(iv) Hospitals and distribution of medical supplies.

(v) Critical logistic functions and public utility services.

(vi) Civil air traffic control.

(vii) Military assistance to civil authorities.

(viii) Defense and protection of critical industrial facilities.

(ix) Critical weather services.
 (x) Transportation to accomplish the foregoing NSEP functions.

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

(4) Public Welfare and Maintenance of National Economic Posture. This subcategory covers the minimum number of telecommunication services necessary for maintaining the public welfare and national economic posture during any national or regional emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

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

(i) Distribution of food and other essential supplies.

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

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

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

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

(vi) Transportation to accomplish the foregoing NSEP functions.

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

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

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

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

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

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

Appendix:

A. Definitions

Director, Office of Science and Technology Policy.

Dated: July 5, 1990.

Director, Office of Management and Budget.

Dated: July 5, 1990.

Assistant to the President for National Security Affairs.

Dated: July 5, 1990.

Summary of Changes: Initial publication.

Appendix A—Definitions

For the purposes of this Directive:

Assignment

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

Audit

A quality assurance review in response to identified problems.

Committee of Principals (COP)

As specified by Executive Order 12472, a committee consisting of representatives from those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and, to the extent permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security or emergency preparedness telecommunications capabilities.

Government

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

National Communications System (NCS)

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

National Coordinating Center (NCC)

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

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

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

National Security Emergency Preparedness (NSEP) Treatment

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

Priority Action

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

Priority Level

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

Priority Level Assignment

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

Private NSEP Telecommunication Services

Those non-common carrier telecommunication services including private line, vir-

tual private line, and private switched network services.

Provisioning

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

Public Switched NSEP Telecommunication Services

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

Reconciliation

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

Restoration

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

Revalidation

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

Revision

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

Revocation

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

Service Identification

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

Service User

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

Service Vendor

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

"Spare" Circuits or Services

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

Telecommunication Services

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

Telecommunications Service Priority (TSP) System User

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

[NCS DIRECTIVE 3-3]

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

September 30, 1988.

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

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

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

4. *References.*

a. Executive Order (E.O.) No. 12472, "Assignment of National Security and Emer-

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

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

5. *General.*

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

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

6. *Policy.*

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

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

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

7. *Responsibilities.*

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

- (1) Identify HF stations under their control for participation in the SHARES Program.
- (2) Maintain the operational readiness of their SHARES HF stations.
- (3) Provide updated information as necessary for inclusion in a SHARES HF Radio

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Program Directory. Use of Federal frequencies for SHARES traffic shall be in accordance with National Telecommunications and Information Administration (NTIA) "Manual of Regulations and Procedures for Federal Radio Frequency Management."

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

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

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

(1) Publish and periodically update, as NCS issuances, a User Manual, giving detailed

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procedures for using SHARES HF Radio Program capabilities, and HF Directory of participating Federally controlled HF radio stations.

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

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

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

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

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

[55 FR 51063, Dec. 11, 1990]