

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

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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 su-

persedes the Director of Telecommunications Management Order of January 15, 1967 (32 FR 791, 47 CFR part 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.

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(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

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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 agencies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service

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

**§211.6 Submission and processing of restoration priority requests.**

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

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

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

(d) Requests for restoration priority assignments made by Foreign Government agencies, except for NATO, NATO national military authority, and such other requests as the Executive Agent may be designated, will be submitted to the Department of State for initial evaluation and review. The Department will forward to the Executive Agent for processing and approval such of these requests as it finds acceptable.

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

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### 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.