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PART 200 [RESERVED]

PART 201—EXECUTIVE POLICY

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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 State. 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 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.

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

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

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

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

PART 202—NATIONAL SECURITY AND EMERGENCY PREPAREDNESS PLANNING AND EXECUTION

Sec.

202.0 Objectives.
202.1 Policies.
202.2 Criteria and guidance.
202.3 Plans preparation and execution.

AUTHORITY: 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.