

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.

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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

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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) Redesignate 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

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may be necessary to assure effective frequency usage during wartime emergency conditions.

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