

Appendix B

PROPOSED CELLULAR PRIORITY ACCESS SERVICE (CPAS) RULES

A. PRELIMINARY

1. New Section Heading in Part 64: **Subpart N - Cellular Priority Access Service:**

64.1401 **Policies and procedures for the provision of cellular priority access service**

Cellular service providers which elect to provide cellular priority access service for National Security and Emergency Preparedness (NS/EP) telecommunications shall provide cellular priority access service in accordance with policies and procedures set forth in Appendix B to this part.

2. Amend Subpart D: 64.401 **Policies and procedures for provisioning and restoring certain telecommunications services in emergencies:**

The communications common carriers shall maintain and provision and, if disrupted, restore facilities and services in accordance with policies and procedures set forth in ~~the~~ Appendix A to this part.

B. New Cellular Priority Access rules

APPENDIX B TO PART 64

Appendix B to Part 64 - Cellular Priority Access Service for National Security Emergency Preparedness (NS/EP)

1. AUTHORITY

This appendix is issued pursuant to sections 1, 4(i), 201 through 205 and 303(r) of the Communications Act of 1934, as amended. Under these sections, the Federal Communications Commission (FCC) may permit the assignment and approval of priorities for access to cellular networks. Under section 706 of the Communications Act, this authority may be superseded by the war emergency powers of the President of the United States. This appendix provides the Commission's Order to cellular service providers and users to comply with policies and procedures establishing the Cellular Priority Access Service (CPAS). This appendix is intended to be read in conjunction with regulations and procedures that the Executive Office of the President issues (1) to implement responsibilities assigned in section 3 of this appendix, or (2) for use in the event this appendix is superseded by the President's emergency war powers. Together, this appendix and the regulations and procedures issued by the Executive Office of the President establish one uniform system of cellular priority access service both before and after invocation of the President's emergency war powers.

2. BACKGROUND

a. Purpose: This appendix establishes regulatory authorization for CPAS to support the needs of NS/EP cellular telecommunications users.

b. Applicability: This appendix applies to the provision of CPAS by cellular service licensees to users who qualify under the provisions of section 5 of this appendix.

c. Description: CPAS provides the means for NS/EP telecommunications users to obtain priority access to available radio channels when necessary to initiate emergency cellular call attempts. It does not preempt calls in progress and is to be used during situations when cellular network congestion is blocking NS/EP call attempts. CPAS is to be available to authorized NS/EP users at all times in equipped cellular markets where the service provider has voluntarily decided to provide such service. Authorized users would activate the feature on a per call basis by dialing a feature code such as *XX. CPAS priorities 1 through 5 are reserved for qualified and authorized NS/EP users, and those users are provided access to cellular channels before any other cellular callers.

d. Definitions:

1. Authorizing Agent: Refers to a Federal or State entity that authenticates, evaluates and makes recommendations to the Executive Office of the President regarding the assignment of cellular priority access service levels.

2. Service Provider: An FCC-licensed cellular carrier. The term does not include agents of the licensed cellular carrier or resellers of cellular service.

3. Service User: An individual or organization (including a service provider) to whom or which a cellular priority access assignment has been made.

4. The following terms are defined herein as in Appendix A to Part 64:

- a. Assignment
 - b. Government
 - c. National Communications System
 - d. National Coordinating Center
 - e. National Security Emergency Preparedness (NS/EP) Telecommunications Services (excluding the last sentence)
 - f. Reconciliation
 - g. Revalidation
 - h. Revision
 - i. Revocation
- e. Administration: The Executive Office of the President will administer CPAS.

3. RESPONSIBILITIES

- a. The *Federal Communications Commission* will provide regulatory oversight of the implementation of CPAS, enforce CPAS rules and regulations, and act as final authority for approval, revision, or disapproval of priority assignments by the Executive Office of the President by adjudicating disputes regarding either priority assignments or the denial thereof by the Executive Office of the President until superseded by the President's war emergency powers under section 706 of the Communications Act.
- b. The *Executive Office of the President (EOP)* will administer the CPAS system. It will:
 - 1. Act as the final approval or denial authority for the assignment of priorities and the adjudicator of disputes during

the exercise of the President's war emergency powers under Section 706 of the Communications Act.

2. Receive, process, and evaluate requests for priority actions from authorizing agents on behalf of service users or directly from service users. Assign priorities or deny requests for priority using the priorities and criteria specified in section 5 of this appendix. Actions on such requests should be completed within 30 days of receipt.

3. Convey priority assignments to the service provider and the authorizing agent.

4. Revise, revalidate, reconcile, and revoke priority level assignments with service users and service providers as necessary to maintain the viability of the CPAS system.

5. Maintain a database for CPAS related information.

6. Issue new or revised regulations, procedures, and instructional material supplemental to and consistent with this appendix regarding the operation, administration, and use of CPAS.

7. Provide training on CPAS to affected entities and individuals.

8. Enlarge the role of the Telecommunications Service Priority System Oversight Committee to include oversight of the CPAS system.

9. Report periodically to the FCC on the status of CPAS.

10. Disclose content of the NS/EP CPAS database only as may be required by law.

c. An *Authorizing Agent* shall:

1. Identify itself as an authorizing agent and its community of interest (State, Federal Agency) to the EOP. State Authorizing Agents will provide a central point of contact to receive priority requests from users within their State. Federal Authorizing Agents will provide a central point of contact to receive priority requests from federal users or federally sponsored entities.

2. Authenticate, evaluate, and make recommendations to the EOP to approve priority level assignment requests using the priorities and criteria specified in section 5 of this appendix. As a guide, CPAS authorizing agents should request the lowest priority level that is applicable and the minimum number of cellular services required to support an NS/EP function. When appropriate, the authorizing agent will recommend approval or deny requests for CPAS.

3. Ensure that documentation is complete and accurate before forwarding it to the EOP.

4. Serve as a conduit for forwarding CPAS information from the EOP to the service user and vice versa. Information will include CPAS requests and assignments, reconciliation and revalidation notifications, and other information.

5. Participate in reconciliation and revalidation of CPAS information at the request of the EOP.

6. Comply with any regulations and procedures supplemental to and consistent with this appendix which are issued by the EOP.

7. Disclose content of the NS/EP CPAS database only as required by law.

d. *Service users will:*

1. Determine the need for and request CPAS assignments in a planned process, not waiting until an emergency has occurred.

2. Request CPAS assignments for the lowest applicable priority level and minimum number of cellular services necessary to provide NS/EP telecommunications management and response functions during emergency/disaster situations.

3. Initiate CPAS requests through the appropriate authorizing agent. The EOP will make final approval or denial of CPAS requests and may direct service providers to remove CPAS if appropriate. (Note: State and local government or private users will apply for CPAS through their designated State government authorizing agent. Federal users will apply for CPAS through their employing agency. State and local users in States where there has been no designation will be sponsored by the Federal agency concerned with the emergency function as set forth in Executive Order 12656. If no authorizing agent is determined using these criteria, the EOP will serve as the authorizing agent.)

4. Submit all correspondence regarding CPAS to the authorizing agent.

5. Invoke CPAS only when cellular congestion blocks network access and the user must establish communications to fulfill an NS/EP mission. Calls should be as brief as possible

so as to afford cellular service to other NS/EP users.

6. Participate in reconciliation and revalidation of CPAS information at the request of the authorizing agent or the EOP.

7. Request discontinuance of CPAS when the NS/EP qualifying criteria used to obtain CPAS is no longer applicable.

8. Pay service providers as billed for CPAS.

9. Comply with regulations and procedures that are issued by the EOP which are supplemental to and consistent with this appendix.

e. *Service providers* who offer any form of cellular priority access service for NS/EP purposes shall provide that service in accordance with this appendix. As currently described in the Priority Access and Channel Assignment Standard (IS-53-A), service providers will:

1. Provide CPAS levels 1, 2, 3, 4, or 5 only upon receipt of an authorization from the EOP and remove CPAS for specific users at the direction of the EOP.

2. Ensure that CPAS system priorities supersede any other NS/EP cellular priority which may be provided.

3. Designate a point of contact to coordinate with the EOP regarding CPAS.

4. Participate in reconciliation and revalidation of CPAS information at the request of the EOP.

5. As technically and economically feasible, provide roaming service users the same grade of CPAS provided to local service users.

6. Disclose content of the NS/EP CPAS database only as may be required by law.

7. Comply with regulations and procedures supplemental to and consistent with this appendix that are issued by the EOP.

8. Insure that all times a reasonable amount of cellular spectrums is made available for public use.

9. Notify the EOP and the service user if CPAS is to be discontinued as a service offering.

f. The *Telecommunications Service Priority System Oversight Committee* will identify and review any systemic problems associated with the CPAS system and recommend actions to correct them or prevent their recurrence.

4. **APPEAL**

Service users and authorizing agents may appeal any priority level assignment, denial, revision or revocation to the EOP within 30 days of notification to the service user. The EOP will act on the appeal within 90 days of receipt. If a dispute still exists, an appeal may then be made to the FCC within 30 days of notification of the EOP's decision. The party filing the appeal must include factual details supporting its claim and must provide a copy of the appeal to the EOP and any other party directly involved. Involved parties may file a response to the appeal made to the FCC within 20 days, and the initial filing party may file a reply within 10 days thereafter. The FCC will provide notice of its decision to the parties of record. Until a decision is made, the service will remain status quo.

5. CPAS PRIORITY LEVELS AND QUALIFYING CRITERIA

The following CPAS priority levels and qualifying criteria applies equally to all users and will be used as a basis for all CPAS assignments. There are five levels of NS/EP priorities, priority one being the highest. The five priority levels are:

1. Executive Leadership and Policy Makers
2. Disaster Response/Military Command and Control
3. Public Health, Safety and Law Enforcement Command
4. Public Services/Utilities and Public Welfare
5. Disaster Recovery

These priority levels were selected to meet the needs of the emergency response community and provide cellular priority access for the command and control functions critical to management of and response to national security and emergency situations, particularly during the first 24 to 72 hours following an event. Priority assignments should only be requested for key personnel and those individuals in national security and emergency response leadership positions. CPAS is not intended for use by all emergency services personnel.

A. Priority 1: Executive Leadership and Policy Makers

Users who qualify for the Executive Leadership and Policy Makers priority will be assigned priority 1. A limited number of cellular service technicians who are essential to restoring the cellular networks shall also receive this highest priority treatment. Examples of those eligible include:

--President of the United States, Secretary of Defense, selected

military leaders, and the minimum number of senior staff necessary to support these officials.

--State governors, lieutenant governors, cabinet-level officials responsible for public safety and health, and the minimum number of senior staff necessary to support these officials.

--Mayors, county commissioners, and the minimum number of senior staff to support these officials.

B. Priority 2: Disaster Response/Military Command and Control

Users who qualify for the Disaster Response/Military Command and Control priority will be assigned priority 2. Individuals eligible for this priority include personnel key to managing the initial response to an emergency at the local, state, regional and federal level. Personnel selected for this priority should be responsible for ensuring the viability or reconstruction of the basic infrastructure in an emergency area. In addition, personnel essential to continuity of government and national security functions (such as the conduct of international affairs and intelligence activities) are also included in this priority. Examples of those eligible include:

--Federal emergency operations center coordinators, e.g., Manager, National Coordinating Center for Telecommunications, National Interagency Fire Center, Federal Coordinating Officer, Federal Emergency Communications Coordinator, Director of Military Support

--State emergency Services director, National Guard Leadership, State and Federal Damage Assessment Team Leaders.

- Federal, state and local personnel with continuity of government responsibilities.
- Incident Command Center Managers, local emergency managers, other state and local elected public safety officials.
- Federal personnel with intelligence and diplomatic responsibilities.

C. Priority 3: Public Health, Safety, and Law Enforcement

Command Users who qualify for the Public Health, Safety, and Law Enforcement Command priority will be assigned priority 3.

Eligible for this priority are individuals who direct operations critical to life, property, and maintenance of law and order immediately following an event. Examples of those eligible include:

- Federal law enforcement command
- State police leadership
- Local fire and law enforcement command
- Emergency medical service leaders
- Search and rescue team leaders
- Emergency communications coordinators

D. Priority 4: Public Services/Utilities and Public Welfare

Users who qualify for the Public Services/Utilities and Public Welfare priority will be assigned priority 4. Eligible for this priority are those users whose responsibilities include managing public works and utility infrastructure damage assessment and restoration efforts and transportation to accomplish emergency response activities. Examples of those eligible include:

- Army Corps of Engineers leadership
- Power utilities
- Water and sewage utilities
- Telecommunications utilities
- Transportation leadership

E. Priority 5: Disaster Recovery

Users who qualify for the Disaster Recovery priority will be assigned priority 5. Eligible for this priority are those individuals responsible for managing a variety of recovery operations after the initial response has been accomplished. These functions may include managing medical resources such as supplies, personnel, or patients in medical facilities. Other activities such as coordination to establish and stock shelters, to obtain detailed damage assessments, or to support key disaster field office personnel may be included.

Examples of those eligible include:

- Medical recovery operations leadership
- Detailed damage assessment leadership
- Disaster shelter coordination and management
- Critical Disaster Field Office support personnel

6. LIMITATIONS

CPAS will be assigned only to the minimum number of cellular services required to support an NS/EP function. The Executive Office of the President may also establish limitations upon the relative numbers of services which may be assigned CPAS or the total number of CPAS users in a serving area. These limitations

will not take precedence over laws or executive orders.
Limitations established shall not be exceeded.

END

CERTIFICATE OF SERVICE

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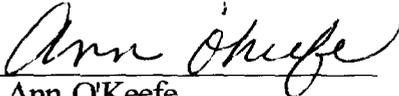
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