

taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

National Disaster Medical System (NDMS). An inter-departmental national mutual aid system developed by Federal departments and agencies to provide for the medical needs of victims of major disasters, and to provide backup support for medical systems of the Departments of Defense and Veterans Affairs in caring for casualties from military conflicts. The Department of Health and Human Services serves as the lead Federal agency for administering NDMS, and would coordinate NDMS operations in response to civil emergencies. The Department of Defense could activate and coordinate NDMS operations in support of military contingencies.

National security emergency. Any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States (E.O. 12656).

Planning agent. A military or civilian official of any DoD Component, who has been designated by the head of that Component to exercise delegated authority for MSCA planning for the entire Component (i.e., “principal planning agent”) or for certain subordinate elements or a specified geographic area (e.g., “regional planning agents”). Authority and responsibilities of each planning agent will be defined by the Component, and may include MSCA response as well as planning at the election of any Component. The actual authority of planning agents will be communicated to others, as determined by the DoD Component, or when requested by the DoD Executive Agent.

Regional Military Emergency Coordinator (RMEC). An individual, designated on behalf of the Secretary of Defense and the DoD Executive Agent, to perform coordination, information exchange, and liaison functions on behalf of the Department of Defense with

any Federal emergency management structure established at the Region level. Alternate RMECs are designated by other DoD Components, as required, in accordance with this part; and the RMECs and alternates collectively are referred to as “RMEC Teams.”

Residual Capability Assessment (RECA). An assessment of the effects of a nuclear or conventional attack on U.S. resources, or of a major peacetime disaster that results in the declaration of a national security emergency. Such an assessment is made (through all appropriate means) to determine the remaining capabilities of the United States with emphasis on military preparedness.

Resource claimancy. The procedure, employed during any period of attack or national security emergency, whereby authorized Federal agencies determine definitive requirements and justify the allocation of civil government and civil resources needed to support programs under their cognizance. It does not imply procurement activity, nor does it involve the Government as an intermediary in the normal mechanisms of trade other than in expediting essential activities and ensuring equitable distribution of civil resources. Resource claimancy occurs at both the national and regional levels.

State Area Commands (STARCS). Specific headquarters units of the Army National Guard for each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§185.4 Policy.

(a) *National policy.* (1) Planning and preparedness by the Federal Government for civil emergencies and attacks are important due to the severity of the consequences of emergencies for the nation and the population, and to the sophistication of means of attack on the United States and its territories.

(2) Under the Stafford Act, as amended, it is the policy of the Federal Government to provide an orderly and continuing means of supplemental assistance to State and local governments in their responsibilities to alleviate the suffering and damage that result from major disasters or emergencies. Upon

declaring a major disaster or emergency under the Stafford Act, the President may direct any agency of the Federal Government to undertake missions and tasks (on either a reimbursable or non-reimbursable basis) to provide assistance to State and local agencies. The President appoints a Federal Coordinating Officer (FCO) to operate in the affected area, and delegates authority to the FCO. The President has delegated to the Director of FEMA the authority to appoint FCOs; and FEMA officials frequently serve as FCOs.

(3) In accordance with the Federal Civil Defense Act of 1950, as amended, the national civil defense policy is to have a civil defense program to develop capabilities common to all catastrophic emergencies and those unique to attack emergencies, which will support all-hazard emergency management at State and local levels, in order to protect the population and vital infrastructure. Under the national civil defense policy, the Department of Defense will support civil authorities in civil defense, to include facilitating the use of the National Guard in each State for response in both peacetime disasters and national security emergencies.

(4) Under E.O. 12656, it is the policy of the Federal Government to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency.

(b) *Scope.* This part governs all planning and response by DoD Components for civil defense or other assistance to civil authorities, with the exception of military support to law enforcement operations under DoD Directive 3025.12 and contingency war plans.

(c) *Delegations of authority.* The Secretary of Defense shall be assisted in executing his responsibility for MSCA by the following:

(1) The Secretary of the Army shall be the DoD Executive Agent and shall act for the Secretary of Defense in accordance with this part and any supplemental direction or guidance received from the Secretary of Defense. In that capacity, the DoD Executive Agent will develop planning guidance, plans, and procedures for MSCA in accordance with this part. The DoD Executive

Agent has the authority of the Secretary of Defense to task the DoD Components to plan for and to commit DoD resources, in response to requests from civil authorities under MSCA. The Secretary of the Army shall coordinate with the Chairman of the Joint Chiefs of Staff any commitment of military forces assigned to the Unified and Specified Commands.

(2) The Chairman of the Joint Chiefs of Staff shall communicate to the Commanders of the Unified and Specified Commands appropriate guidance issued by the Secretary of the Army for their compliance with this part, and also shall assist the DoD Executive Agent in developing MSCA planning guidance for all conditions of war or attacks on the United States or its territories.

(3) The Commander in Chief, Forces Command (CINCFOR); the Commander in Chief, U.S. Atlantic Command (USCINCLANT); and the Commander in Chief, U.S. Pacific Command (USCINCPAC), shall serve as "DoD Planning Agents" for MSCA. Pursuant to guidance issued by the DoD Executive Agent, after coordination with the Chairman of the Joint Chiefs of Staff, the DoD Planning Agents shall conduct MSCA planning, and shall lead MSCA planning activities of all DoD Components within the following geographic areas:

(i) CINCFOR (48 contiguous States and the District of Columbia).

(ii) USCINCLANT (Puerto Rico and the U.S. Virgin Islands).

(iii) USCINCPAC (Alaska, Hawaii, and U.S. possessions and territories in the Pacific area).

(4) The Commanders of the Unified and Specified Commands shall provide MSCA response, as directed by the DoD Executive Agent.

(5) The Secretary of Defense reserves the authority to modify or terminate the executive agency established by this part if operational needs so require in a particular situation.

(d) *MSCA policy.*

(1) MSCA shall include (but not be limited to) support similar to that described for immediate response (paragraph (e) of this section), in either civil emergencies or attacks, during any period of peace, war, or transition to war.

It shall include response to civil defense agencies, but shall not include military assistance for civil law enforcement operations.

(i) DoD Directive 3025.12 governs use of military resources in the event of civil disturbances, which may include providing physical security for DoD Key Assets, as defined in DoD Directive 5160.54.⁷

(ii) Material, logistic, communications, and other assistance to law enforcement (especially during enforcement operations) is provided under DoD Directive 5525.⁸

(2) The DoD Components shall respond to requirements of the DoD Executive Agent and DoD Planning Agents for MSCA, as authorized by this part.

(3) To ensure sound management of DoD resources, MSCA planning will stress centralized direction of peacetime planning with civil authorities, with decentralized planning by DoD Components with civil agencies, where appropriate, and decentralized execution of approved plans in time of emergency.

(4) Subject to priorities established by the President or the Secretary of Defense, all DoD resources are potentially available for MSCA. MSCA planning and execution will encourage and adhere to the following premises:

(i) That civil resources are applied first in meeting requirements of civil authorities.

(ii) That DoD resources are provided only when response or recovery requirements are beyond the capabilities of civil authorities (as determined by FEMA or another lead Federal agency for emergency response).

(iii) That specialized DoD capabilities requested for MSCA (e.g., airlift and airborne reconnaissance) are used efficiently.

(iv) Generally, military operations other than MSCA will have priority over MSCA, unless otherwise directed by the Secretary of Defense.

(5) MSCA shall provide a mechanism to facilitate continuous and cooperative civil and military planning and preparedness to mobilize all appro-

priate resources and capabilities of the civil sector and the Department of Defense, whenever required for any form of national security emergency.

(6) DoD planning shall recognize that:

(i) Army and Air National Guard forces, acting under State orders (i.e., not in Federal service), have primary responsibility for providing military assistance to State and local government agencies in civil emergencies.

(ii) The Army National Guard State Area Command (STARC), when ordered to Federal Active Duty, will be the DoD focal point for delivery of MSCA at State and local levels in time of war.

(iii) Plans and preparedness measures of MSCA must foster close and continuous coordination for efficient employment of DoD resources of the National Guard (whether employed under State or Federal authority), as well as resources of the DoD Components, in time of peace, war, or transition to war.

(iv) In the event of an attack on the United States, its territories, or possessions, the scope of MSCA in each geographical area will depend upon the commitment of military resources to military operations, the extent of damage sustained by the civilian communities, and the status of Active and Reserve Component forces.

(7) DoD Components shall augment staffs responsible for MSCA, as appropriate, with personnel from Reserve components of all Military Services who are specifically trained for civil-military planning and emergency liaison duties. (See enclosure 3 in DoD Directive 1215.6.)⁹ The Military Services also shall ensure that all Active or Reserve component military personnel assigned or attached to FEMA are appropriately trained and employed to enhance DoD capabilities for MSCA in time of war or attack on the United States or its territories.

(8) The DoD Components ordinarily shall provide DoD resources in response to civil emergencies on a cost reimbursable basis. However, see paragraph (e)(2) of this section for circumstances in which an inability or unwillingness

⁷ See footnote 4 to § 185.1(f).

⁸ See footnote 4 to § 185.1(f).

⁹ See footnote 4 to § 185.1(f).

of a requester to commit to reimbursement will not preclude action by DoD components.

(i) The DoD Components shall comply with legal and accounting requirements for the loan, grant, or consumption of DoD resources for MSCA, as necessary, to ensure reimbursement of costs to the DoD Components under the Stafford Act, as amended; the Defense Emergency Response Fund established by Public Law 101-165 (1989); or other applicable authority.

(ii) The DoD Components shall not procure or maintain any supplies, material, or equipment exclusively for providing MSCA in civil emergencies, unless otherwise directed by the Secretary of Defense.

(iii) Planning for MSCA during any time of attack on the United States shall assume that financial requirements will be met through appropriate legal processes.

(9) Military forces employed in MSCA activities shall remain under military command and control under the authority of the DoD Executive Agent at all times.

(10) The DoD Components shall not perform any function of civil government unless absolutely necessary on a temporary basis under conditions of Immediate Response. Any commander who is directed, or undertakes, to perform such functions shall facilitate the reestablishment of civil responsibility at the earliest time possible.

(e) *Immediate Response.* (1) Imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders, or by responsible officials of other DoD Agencies, to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders and responsible officials of other DoD Components are authorized by this part, subject to any supplemental direction that may be provided by their DoD component, to take necessary action to respond to requests of civil authorities. All such necessary action is referred to in this part as "Immediate Response."

(2) While Immediate Response should be provided to civil agencies on a cost-reimbursable basis if possible, it should not be delayed or denied because of the inability or unwillingness of the requester to make a commitment to reimburse the Department of Defense.

(3) Any commander or official acting under the Immediate Response authority of this Directive shall advise the DoD Executive Agent through command channels, by the most expeditious means available, and shall seek approval or additional authorizations as needed.

(4) Immediate Response may include DoD assistance to civil agencies in meeting the following types of need:

(i) Rescue, evacuation, and emergency medical treatment of casualties, maintenance or restoration of emergency medical capabilities, and safeguarding the public health.

(ii) Emergency restoration of essential public services (including fire-fighting, water, communications, transportation, power, and fuel).

(iii) Emergency clearance of debris, rubble, and explosive ordnance from public facilities and other areas to permit rescue or movement of people and restoration of essential services.

(iv) Recovery, identification, registration, and disposal of the dead.

(v) Monitoring and decontaminating radiological, chemical, and biological effects; controlling contaminated areas; and reporting through national warning and hazard control systems.

(vi) Roadway movement control and planning.

(vii) Safeguarding, collecting, and distributing food, essential supplies, and material on the basis of critical priorities.

(viii) Damage assessment.

(ix) Interim emergency communications.

(x) Facilitating the reestablishment of civil government functions.

(f) *Military cooperation with civil agencies.* (1) Under E.O. 12148 (44 FR 43239, 3 CFR 1979 Comp., p. 412) and E.O. 12656, FEMA is responsible for coordinating Federal plans and programs for response to civil emergencies at the national and regional levels, and for Federal assistance to the States in civil

emergencies. Other Federal departments and agencies have specific responsibilities for emergency planning and response under E.O. 12656, and under statutory authorities not listed in this part. The DoD Executive Agent shall ensure:

(i) Coordination of MSCA plans and procedures with FEMA, and with other civil agencies as appropriate, at the national and Federal Region level.

(ii) Facilitation of direct planning for MSCA by DoD facilities and installations with their local communities, and with their respective STARCs, as appropriate.

(2) The DoD Executive Agent also shall provide appropriate guidance to facilitate MSCA planning and response with the American Red Cross and other civilian disaster and emergency assistance organizations where authorized by law.

(g) *Response under other authorities.* DoD response to emergencies under authorities not cited in this Directive also may be directed, coordinated, or supplemented by the DoD Executive Agent, as circumstances require. For example:

(1) The U.S. Coast Guard (USCG) or the U.S. Environmental Protection Agency (EPA) will coordinate Federal response to oil or hazardous material spills, other than those occurring within DoD jurisdictions. The DoD Executive Agent will provide MSCA to the USCG or the EPA; but responsibilities of DoD Components in areas under DoD jurisdiction are covered by DoD Directive 5030.41¹⁰.

(2) Emergencies or other incidents involving radiological materials shall be handled in accordance with DoD Directive 5100.52¹¹.

(3) The Secretary of the Army shall ensure the implementation of DoD responsibilities for emergency water requirements, as specified in E.O. 12656, and response to flooding, as provided in Public Law 84–99 (1941), as amended.

(4) Forest fire emergencies are responsibilities of the U.S. Department of Agriculture or Interior. The Boise Interagency Fire Center (BIFC) may request DoD assistance; and specific

details regarding DoD support are covered by agreements between the Department of Defense and the BIFC that are administered by the DoD Executive Agent.

(5) The DoD Executive Agent is delegated the authority to direct DoD Components in planning for and responding to any civil emergency that may arise out of any mass immigration by aliens into the land territory of the United States, its territories and possessions, consistent with applicable law and this part. The DoD Executive Agent should ensure appropriate coordination with Federal law enforcement authorities in exercising this authority.

(6) Use of DoD transportation resources in response to a non-declared civil emergency shall be directed by the DoD Executive Agent under this part. (See also DoD Directive 4500.9¹²

(h) *Non-declared emergencies.* The DoD Executive Agent may direct DoD Components to respond to any emergency, based on authority that is provided by this part or obtained from the Secretary or Deputy Secretary of Defense. If an emergency of any kind or size requires a response on behalf of the Department of Defense, where there has not been any declaration of major disaster or emergency by the President, or if reimbursement of funds to the Department of Defense is otherwise not certain, the DoD Executive Agent shall ascertain the authority necessary to commit DoD resources for response to requests from civil authorities.

(1) Authorizations by the DoD Executive Agent under this paragraph shall include (but not be limited to) commitment of funds from the Defense Emergency Response Fund in anticipation of reimbursements to that fund.

(2) The DoD Executive Agent shall obtain authorization from the Secretary of Defense or Deputy Secretary of Defense to provide support in those cases in which DoD response is not clearly required by Federal law or by DoD plans approved by the DoD Executive Agent.

(i) *Emergency priorities.* When guidance cannot be obtained from higher headquarters on a timely basis, due to

¹⁰ See footnote 4 to § 185.1(f).

¹¹ See footnote 4 to § 185.1(f).

¹² See footnote 4 to § 185.1(f).

attack on the United States or other emergency circumstances, the DoD Components should apply DoD resources to MSCA in the following order of priority:

(1) To save human life and mitigate human suffering, and to protect essential U.S. Government capabilities, including:

(i) Continuity of the U.S. Government.

(ii) Protection of U.S. Government officials.

(iii) Prevention of loss or destruction to Federal property.

(iv) Restoration of essential Federal functions.

(2) To preserve or restore services of State and local government.

§ 185.5 Responsibilities.

(a) The *Under Secretary of Defense For Policy* shall:

(1) Exercise policy oversight of MSCA for the Secretary of Defense, and ensure compatibility of MSCA with National Security Emergency Preparedness, in accordance with DoD Directive 3020.36¹³ and E.O. 12656.

(2) Coordinate DoD policy governing plans and operations with FEMA; and assist the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, and others, as appropriate, in their coordination with FEMA.

(b) The *Assistant Secretary of Defense For Health Affairs* shall coordinate policy for emergency medical support to civil authorities in consonance with this part, to include participation by the Department of Defense in the National Disaster Medical System (NDMS).

(c) The *Assistant Secretary of Defense (Reserve Affairs)* shall advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the USD(P), and the Secretaries of the Military Departments, as required, on Reserve component matters impacting on MSCA.

(d) The *Comptroller of the Department of Defense* shall:

(1) Facilitate accounting procedures that will enable the Department of Defense to respond on a timely basis to all emergency requirements for MSCA; and

(2) In conjunction with the DoD Executive Agent, provide for accounting and other procedures necessary to manage expenditures for MSCA from the Defense Emergency Response Fund.

(e) The *Chairman of the Joint Chiefs of Staff* shall:

(1) Advise the Secretary of Defense and the DoD Executive Agent on policies, responsibilities, and programs bearing on MSCA.

(2) In coordination with the DoD Executive Agent, facilitate communications by the DoD Executive Agent with commanders, as appropriate.

(3) Ensure the compatibility of MSCA plans with other military plans.

(4) Facilitate CINCFOR's development of an MSCA data base and emergency reporting system, as described in paragraph (j) of this section.

(5) Facilitate coordinated evaluation of MSCA plans and capabilities by the Commanders of the Unified and Specified Commands through exercises or other means, as appropriate.

(f) The *Secretaries of the Military Departments* shall:

(1) Provide for participation by the Military Services in MSCA planning, in accordance with this part and with guidance of the DoD Executive Agent; and ensure readiness of Active and Reserve components to execute plans for MSCA.

(2) Ensure the designation of a principal planning agent and regional planning agents of MSCA for each Military Service, and advise the DoD Executive Agent and the Chairman of the Joint Chiefs of Staff of such agents.

(3) Ensure effective and efficient coordination of MSCA planning by Service installations with Federal Regions, STARCs, and State and local civil authorities, through the DoD Planning Agents, as directed by the DoD Executive Agent.

(4) Furnish available resources for MSCA when directed by the DoD Executive Agent.

(5) Identify to the DoD Executive Agent the resources of their respective Military Services that are potentially available for MSCA within the parameters of the DoD Resources Data Base (DODRDB) for MSCA, which is described in paragraph (n) of this section.

¹³See footnote 4 to § 185.1(f).