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CODE OF FEDERAL REGULATIONS  
TITLE 32--NATIONAL DEFENSE  
SUBTITLE A--DEPARTMENT OF DEFENSE  
CHAPTER V--DEPARTMENT OF THE ARMY  
SUBCHAPTER A--AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS  
PART 501--EMPLOYMENT OF TROOPS IN AID OF CIVIL AUTHORITIES

Current through May 7, 2002; 67 FR 30627

§ 501.4 Martial law.

It is unlikely that situations requiring the commitment of Federal Armed Forces will necessitate the declaration of martial law. When Federal Armed Forces are committed in the event of civil disturbances, their proper role is to support, not supplant, civil authority. **Martial law depends for its justification upon public necessity. Necessity gives rise to its creation; necessity justifies its exercise; and necessity limits its duration.** The extent of the military force used and the actual measures taken, consequently, will depend upon the actual threat to order and public safety which exists at the time. In most instances the decision to impose martial law is made by the President, who normally announces his decision by a proclamation, which usually contains his instructions concerning its exercise and any limitations thereon. However, the decision to impose martial law may be made by the local commander on the spot, if the circumstances demand immediate action, and time and available communications facilities do not permit obtaining prior approval from higher authority (§ 501.2). Whether or not a proclamation exists, it is incumbent upon commanders concerned to weigh every proposed action against the threat to public order and safety it is designed to meet, in order that the necessity therefor may be ascertained. When Federal Armed Forces have been committed in an objective area in a martial law situation, the population of the affected area will be informed of the rules of conduct and other restrictive measures the military is authorized to enforce. These will normally be announced by proclamation or order and will be given the widest possible publicity by all available media. Federal Armed Forces ordinarily will exercise police powers previously inoperative in the affected area, restore and maintain order, insure the essential mechanics of distribution, transportation, and communication, and initiate necessary relief measures.