

Subsec. (b)(3). Pub. L. 105-33, §3002(e)(2)(D), added par. (3).

Subsec. (d)(4). Pub. L. 105-33, §3002(e)(3), substituted “initial report” for “final report”.

Subsecs. (f) to (i). Pub. L. 105-33, §3002(d)(1), added subsecs. (f) to (i).

#### SPECTRUM MANAGEMENT AUTHORITY RETAINED

Pub. L. 108-494, title II, §208(a), Dec. 23, 2004, 118 Stat. 3996, provided that: “Except as provided with respect to the bands of frequencies identified in section 113(g)(2)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)(A)) as amended by this title, nothing in this title [see Short Title of 2004 Amendment note set out under section 901 of this title] or the amendments made by this title shall be construed as limiting the Federal Communications Commission’s authority to allocate bands of frequencies that are reallocated from Federal use to non-Federal use for unlicensed, public safety, shared, or non-commercial use.”

#### REPORTS ON COSTS OF RELOCATIONS

Pub. L. 105-261, div. A, title X, §1064(d), Oct. 17, 1998, 112 Stat. 2133, provided that: “The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications [and] Information Administration Organization Act (47 U.S.C. 923) as of the date of such report.”

### § 924. Withdrawal or limitation of assignment to Federal Government stations

#### (a) In general

The President shall—

(1) within 6 months after receipt of a report by the Secretary under subsection (a), (d)(1), or (f) of section 923 of this title, withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

(2) within any such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 923(b)(2) of this title;

(3) by the delayed effective date recommended by the Secretary under section 923(e) of this title (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

#### (b) Exceptions

##### (1) Authority to substitute

If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency or frequencies for the frequency that

is subject to such determination and withdraw (or limit) the assignment of that alternative frequency in the manner required by subsection (a) of this section; and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Commission, Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

#### (2) Grounds for substitution

For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national defense interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

(C) the reassignment would seriously jeopardize public health or safety;

(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency; or

(E) the reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

#### (3) Criteria for substituted frequencies

For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended by the report of the Secretary under section 923(a) of this title unless the substituted frequency also meets each of the criteria specified by section 923(a) of this title.

#### (4) Delays in implementation

If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 923(e) of this title, or that such an action by such date would result in a frequency being unused as a consequence of the Commission’s plan under section 925 of this title, the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(Pub. L. 102-538, title I, §114, as added Pub. L. 103-66, title VI, §6001(a)(3), Aug. 10, 1993, 107 Stat. 384; amended Pub. L. 105-33, title III, §3002(d)(2), Aug. 5, 1997, 111 Stat. 264.)

#### AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-33, §3002(d)(2)(A), substituted “subsection (a), (d)(1), or (f)” for “subsection (a) or (d)(1)”.

Subsec. (a)(2). Pub. L. 105-33, §3002(d)(2)(B), substituted “any such 6-month period” for “either such 6-month period”.

**§ 925. Distribution of frequencies by Commission**

**(a) Allocation and assignment of immediately available frequencies**

With respect to the frequencies made available for immediate reallocation pursuant to section 923(e)(2) of this title, the Commission, not later than 18 months after August 10, 1993, shall issue regulations to allocate such frequencies and shall propose regulations to assign such frequencies.

**(b) Allocation and assignment of remaining available frequencies**

With respect to the frequencies made available for reallocation pursuant to section 923(e)(3) of this title, the Commission shall, not later than 1 year after receipt of the initial reallocation report required by section 923(a) of this title, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act [47 U.S.C. 151 et seq.] of such frequencies. Such plan shall—

(1) not propose the immediate allocation and assignment of all such frequencies but, taking into account the timetable recommended by the Secretary pursuant to section 923(e) of this title, shall propose—

(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of 10 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for allocation and assignment beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure—

(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the 1934 Act (47 U.S.C. 157);

(B) the availability of frequencies to stimulate the development of such technologies; and

(C) the safety of life and property in accordance with the policies of section 1 of the 1934 Act (47 U.S.C. 151);

(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations;

(4) not prevent the Commission from allocating frequencies, and assigning licenses to use frequencies, not included in the plan; and

(5) not preclude the Commission from making changes to the plan in future proceedings.

**(c) Allocation and assignment of frequencies identified in second reallocation report**

**(1) Plan and implementation**

With respect to the frequencies made available for reallocation pursuant to section 923(b)(3) of this title, the Commission shall, not later than one year after receipt of the second reallocation report required by section 923(a) of this title, prepare, submit to the

President and the Congress, and implement, a plan for the immediate allocation and assignment under the 1934 Act [47 U.S.C. §151 et seq.] of all such frequencies in accordance with section 309(j) of such Act [47 U.S.C. 309(j)].

**(2) Contents**

The plan prepared by the Commission under paragraph (1) shall consist of a schedule of allocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.

(Pub. L. 102-538, title I, §115, as added Pub. L. 103-66, title VI, §6001(a)(3), Aug. 10, 1993, 107 Stat. 385; amended Pub. L. 105-33, title III, §3002(e)(4), Aug. 5, 1997, 111 Stat. 265.)

REFERENCES IN TEXT

For definition of the 1934 Act, referred to in subsecs. (b) and (c)(1), see section 921(3) of this title.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-33, §3002(e)(4)(A), substituted “the initial reallocation report required” for “the report required” in introductory provisions.

Subsec. (c). Pub. L. 105-33, §3002(e)(4)(B), added subsec. (c).

ACCELERATED AVAILABILITY FOR AUCTION OF 1,710-1,755 MEGAHERTZ FROM INITIAL REALLOCATION REPORT

Section 3002(b) of Pub. L. 105-33 provided that: “The band of frequencies located at 1,710-1,755 megahertz identified in the initial reallocation report under section 113(a) of the National Telecommunications and Information Administration Act (47 U.S.C. 923(a)) shall, notwithstanding the timetable recommended under section 113(e) of such Act and section 115(b)(1) of such Act [47 U.S.C. 925(b)(1)], be available in accordance with this subsection for assignment for commercial use. The Commission shall assign licenses for such use by competitive bidding commenced after January 1, 2001, pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).”

COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION

Section 3002(c) of Pub. L. 105-33 provided that:

“(1) IN GENERAL.—The Commission shall complete all actions necessary to permit the assignment by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies that—

“(A) in the aggregate span not less than 55 megahertz;

“(B) are located below 3 gigahertz;

“(C) have not, as of the date of enactment of this Act [Aug. 5, 1997]—

“(i) been designated by Commission regulation for assignment pursuant to such section;

“(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

“(iii) been allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305);

“(iv) been designated for reallocation under section 337 of the Communications Act of 1934 [47 U.S.C. 337] (as added by this Act); or

“(v) been allocated or authorized for unlicensed use pursuant to part 15 of the Commission’s regulations (47 C.F.R. Part 15), if the operation of services licensed pursuant to competitive bidding would interfere with operation of end-user products permitted under such regulations;