

tives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

**AUTHORIZATION OF USE OF SPECTRUM BY, AND PROVISION OF SPECTRUM FUNCTIONS TO, FEDERAL ENTITY; REIMBURSEMENT**

Pub. L. 108-7, div. B, title II, Feb. 20, 2003, 117 Stat. 71, provided in part: "That hereafter, notwithstanding any other provision of law, NTIA [National Telecommunications and Information Administration] shall not authorize spectrum use or provide any spectrum functions pursuant to the National Telecommunications and Information Administration Organization Act, 47 U.S.C. 902-903 [47 U.S.C. 901 et seq.], to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum".

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107-77, title II, Nov. 28, 2001, 115 Stat. 772.

Pub. L. 106-553, §1(a)(2) [title II], Dec. 21, 2000, 114 Stat. 2762, 2762A-72.

Pub. L. 106-113, div. B, §1000(a)(1) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A-26.

Pub. L. 105-277, div. A, §101(b) [title II], Oct. 21, 1998, 112 Stat. 2681-50, 2681-80.

Pub. L. 105-119, title II, Nov. 26, 1997, 111 Stat. 2474.

Pub. L. 104-208, div. A, title I, §101(a) [title II], Sept. 30, 1996, 110 Stat. 3009, 3009-35.

**§ 904. General administrative provisions**

**(a) Interagency functions**

**(1) Agency consultation**

Federal agencies shall consult with the Assistant Secretary and the NTIA to ensure that the conduct of telecommunications activities by such agencies is consistent with the policies developed under section 902(b)(2)(K) of this title.

**(2) Report to President**

The Secretary shall timely submit to the President each year the report (including evaluations and recommendations) provided for in section 744(a)<sup>1</sup> of this title.

**(3) Coordination with Secretary of State**

The Secretary shall coordinate with the Secretary of State the performance of the functions described in section 902(b)(2)(C) of this title. The Corporation and concerned executive agencies shall provide the Secretary with such assistance, documents, and other cooperation as will enable the Secretary to carry out those functions.

**(b) Advisory committees and informal consultations with industry**

To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government. The NTIA may also informally consult with industry as appropriate to carry out the most effective performance of its functions.

<sup>1</sup> See References in Text note below.

**(c) General provisions**

**(1) Regulations**

The Secretary and NTIA shall issue such regulations as may be necessary to carry out the functions assigned under this chapter.

**(2) Support and assistance from other agencies**

All executive agencies are authorized and directed to cooperate with the NTIA and to furnish it with such information, support, and assistance, not inconsistent with law, as it may require in the performance of its functions.

**(3) Effect on vested functions**

Nothing in this chapter reassigns any function that is, on October 27, 1992, vested by law or executive order in the Commission, or the Department of State, or any officer thereof.

**(d) Reorganization**

**(1) Authority to reorganize**

Subject to paragraph (2), the Secretary may reassign to another unit of the Department of Commerce a function (or portion thereof) required to be assigned to the NTIA by section 902(b) of this title.

**(2) Limitation on authority**

The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 902(b) of this title unless the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits that statement to such Committees. For purposes of this paragraph, the term "legislative days" includes only days on which both Houses of Congress are in session.

**(e) Limitation on solicitations**

Notwithstanding section 1522 of title 15, neither the Secretary, the Assistant Secretary, nor any officer or employee of the NTIA shall solicit any gift or bequest of property, both real and personal, from any entity for the purpose of furthering the authorized functions of the NTIA if such solicitation would create a conflict of interest or an appearance of a conflict of interest.

(Pub. L. 102-538, title I, §105, Oct. 27, 1992, 106 Stat. 3538.)

**REFERENCES IN TEXT**

Section 744(a) of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 103-414, title III, §304(b)(4)(A), Oct. 25, 1994, 108 Stat. 4297.

**CHANGE OF NAME**

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and ex-

changes and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 905. Omitted

#### CODIFICATION

Section, Pub. L. 95-567, title IV, §402, Nov. 2, 1978, 92 Stat. 2424, which required the National Telecommunications and Information Administration to submit an annual report to Congress on activities of the Administration with respect to domestic communications, international communications, Federal Government communications, spectrum plans and policies, and other matters, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, 1st item on page 55 of House Document No. 103-7.

### SUBCHAPTER II—TRANSFER OF AUCTIONABLE FREQUENCIES

### § 921. Definitions

As used in this subchapter:

(1) The term “allocation” means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term “assignment” means an authorization given to a station licensee to use specific frequencies or channels.

(3) The term “the 1934 Act” means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(Pub. L. 102-538, title I, §111, as added Pub. L. 103-66, title VI, §6001(a)(3), Aug. 10, 1993, 107 Stat. 379.)

#### REFERENCES IN TEXT

The Communications Act of 1934, referred to in par. (3), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### IDENTIFICATION, REALLOCATION, AND AUCTION OF FEDERAL SPECTRUM

Pub. L. 114-74, title X, §§1002-1004, Nov. 2, 2015, 129 Stat. 621, as amended by Pub. L. 114-328, div. A, title X, §1044, Dec. 23, 2016, 130 Stat. 2394, provided that:

#### “SEC. 1002. DEFINITIONS.

“In this title [see Short Title of 2015 Amendment note set out under section 901 of this title]:

“(1) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of Commerce for Communications and Information.

“(2) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.

“(3) FEDERAL ENTITY.—The term ‘Federal entity’ has the meaning given such term in section 113(l) of

the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(l)).

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

#### “SEC. 1003. RULE OF CONSTRUCTION.

“Each range of frequencies described in this title shall be construed to be inclusive of the upper and lower frequencies in the range.

#### “SEC. 1004. IDENTIFICATION, REALLOCATION, AND AUCTION OF FEDERAL SPECTRUM.

“(a) IDENTIFICATION OF SPECTRUM.—Not later than January 1, 2022, the Secretary shall submit to the President and to the Commission a report identifying 30 megahertz of electromagnetic spectrum (in bands of not less than 10 megahertz of contiguous frequencies) below the frequency of 3 gigahertz (except for the spectrum between the frequencies of 1675 megahertz and 1695 megahertz) for reallocation from Federal use to non-Federal use or shared Federal and non-Federal use, or a combination thereof.

“(b) CLEARING OF SPECTRUM.—The President shall—

“(1) not later than January 1, 2022, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum identified under subsection (a); and

“(2) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

“(c) REALLOCATION AND AUCTION.—

“(1) IN GENERAL.—The Commission shall—

“(A) reallocate the electromagnetic spectrum identified under subsection (a) for non-Federal use or shared Federal and non-Federal use, or a combination thereof; and

“(B) notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than July 1, 2024, begin a system of competitive bidding under such section to grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

“(2) PROCEEDS TO COVER 110 PERCENT OF FEDERAL REALLOCATION OR SHARING COSTS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

“(d) PROTECTION OF CERTAIN FEDERAL SPECTRUM OPERATIONS.—If the report required by subsection (a) determines that reallocation and auction of the spectrum described in the report would harm national security by impacting existing terrestrial Federal spectrum operations at the Nevada Test and Training Range, the Commission, in coordination with the Secretary shall, prior to the auction described in subsection (c)(1)(B), establish rules for licensees in such spectrum sufficient to mitigate harmful interference to such operations.

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any requirement under section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (47 U.S.C. 921 note; Public Law 106-65).”

#### STUDY AND REPORT ON CURRENT AND FUTURE SPECTRUM USE

Pub. L. 106-553, §1(a)(2) [title II], Dec. 21, 2000, 114 Stat. 2762, 2762A-73, provided in part: “That the Administrator shall, after consultation with other federal departments and agencies responsible for regulating the core operations of entities engaged in the provision of energy, water and railroad services, complete and submit to Congress, not later than twelve months after date of enactment of this subsection, a study of the current and future use of spectrum by these entities to protect and maintain the nation’s critical infrastructure: *Provided further*, That within six months after the release of this study, the Chairman of the Federal Communications Commission shall submit a report to Congress on the actions that could be taken by the Commission to address any needs identified in the Administrator’s study.”