

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;

“(D) include frequencies at 2,110-2,150 megahertz; and

“(E) include 15 megahertz from within the bands of frequencies at 1,990-2,110 megahertz.

“(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

“(A) seek to promote the most efficient use of the electromagnetic spectrum;

“(B) consider the cost of relocating existing uses to other bands of frequencies or other means of communication;

“(C) consider the needs of existing public safety radio services (as such services are described in section 309(j)(2)(A) of the Communications Act of 1934, as amended by this Act);

“(D) comply with the requirements of international agreements concerning spectrum allocations; and

“(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

“(3) USE OF BANDS AT 2,110–2,150 MEGAHERTZ.—The Commission shall reallocate spectrum located at 2,110–2,150 megahertz for assignment by competitive bidding unless the Commission determines that auction of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the Commission makes such a determination, then the Commission shall, within 2 years after the date of enactment of this Act [Aug. 5, 1997], identify an alternative 40 megahertz, and report to the Congress an identification of such alternative 40 megahertz for assignment by competitive bidding.

“(4) USE OF 15 MEGAHERTZ FROM BANDS AT 1,990–2,110 MEGAHERTZ.—The Commission shall reallocate 15 megahertz from spectrum located at 1,990–2,110 megahertz for assignment by competitive bidding unless the President determines such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference, and that allocation of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce comparable receipts. If the President makes such a determination, then the President shall, within 2 years after the date of enactment of this Act, identify alternative bands of frequencies totalling 15 megahertz, and report to the Congress an identification of such alternative bands for assignment by competitive bidding.

“(5) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licensees displaced under this section by relocating them to other frequencies available for allocation by the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

“(A) specific information on the incumbent licensee;

“(B) the bands the Commission considered for relocation of the licensee;

“(C) the reasons the licensee cannot be accommodated in such bands; and

“(D) the bands of frequencies identified by the Commission that are—

“(i) suitable for the relocation of such licensee; and

“(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act) [part B (§§ 131–135) of title I of Pub. L. 102–538, see Tables for classification].”

§ 926. Authority to recover reassigned frequencies

(a) Authority of President

Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 924 of this title, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) Procedure for reclaiming frequencies

(1) Unallocated frequencies

If the frequencies to be reclaimed have not been allocated or assigned by the Commission

pursuant to the 1934 Act [47 U.S.C. 151 et seq.], the President shall follow the procedures for substitution of frequencies established by section 924(b) of this title.

(2) Allocated frequencies

If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 924(b) of this title, except that the statement required by section 924(b)(1)(B) of this title shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

(c) Costs of reclaiming frequencies

The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section, and there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) Effective date of reclaimed frequencies

The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which a statement under section 924(b)(1)(B) of this title pertaining to such frequencies is received by the Commission.

(e) Effect on other law

Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the 1934 Act (47 U.S.C. 606).

(Pub. L. 102–538, title I, § 116, as added Pub. L. 103–66, title VI, § 6001(a)(3), Aug. 10, 1993, 107 Stat. 386.)

REFERENCES IN TEXT

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

§ 927. Existing allocation and transfer authority retained

(a) Additional reallocation

Nothing in this subchapter prevents or limits additional reallocation of spectrum from the Federal Government to other users.

(b) Implementation of new technologies and services

Notwithstanding any other provision of this subchapter—

(1) the Secretary may, consistent with section 903(e) of this title, at any time allow frequencies allocated on a primary basis for Federal Government use to be used by non-Federal licensees on a mixed-use basis for the purpose of facilitating the prompt implementation of new technologies or services and for other purposes; and