

87-444, §3, Apr. 27, 1962, 76 Stat. 63; Pub. L. 102-538, title II, §204(b), Oct. 27, 1992, 106 Stat. 3543; Pub. L. 103-414, title III, §303(a)(15), Oct. 25, 1994, 108 Stat. 4295; Pub. L. 104-104, title II, §204(b), Feb. 8, 1996, 110 Stat. 113.)

#### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-104 added subsec. (d).  
1994—Subsec. (c). Pub. L. 103-414 made technical amendment to reference to section 35 of this title to correct reference to corresponding section of original act.

1992—Subsec. (b). Pub. L. 102-538 inserted before period at end “in any manner or form, including by electronic means, as the Commission may prescribe by regulation”.

1962—Subsec. (b). Pub. L. 87-444 struck out requirement that applications or statements of fact were to be signed under oath or affirmation.

1952—Subsec. (a). Act July 16, 1952, §6(a), provided that the Commission may grant construction permits and station licenses, or modifications or renewals, only upon written application except that during war or emergency periods no formal application need be filed.

Subsec. (b). Act July 16, 1952, §6(b), substituted “All applications for station licenses or modifications or renewals thereof, shall set forth” for “All such applications shall set forth”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 204(c) of Pub. L. 104-104 provided that: “The amendments made by this section [amending this section and section 309 of this title] apply to applications filed after May 1, 1995.”

### § 309. Application for license

#### (a) Considerations in granting application

Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 of this title applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

#### (b) Time of granting application

Except as provided in subsection (c) of this section, no such application—

(1) for an instrument of authorization in the case of a station in the broadcasting or common carrier services, or

(2) for an instrument of authorization in the case of a station in any of the following categories:

(A) industrial radio positioning stations for which frequencies are assigned on an exclusive basis,

(B) aeronautical en route stations,

(C) aeronautical advisory stations,

(D) airdrome control stations,

(E) aeronautical fixed stations, and

(F) such other stations or classes of stations, not in the broadcasting or common carrier services, as the Commission shall by rule prescribe,

shall be granted by the Commission earlier than thirty days following issuance of public notice by the Commission of the acceptance for filing

of such application or of any substantial amendment thereof.

#### (c) Applications not affected by subsection (b)

Subsection (b) of this section shall not apply—

(1) to any minor amendment of an application to which such subsection is applicable, or  
(2) to any application for—

(A) a minor change in the facilities of an authorized station,

(B) consent to an involuntary assignment or transfer under section 310(b) of this title or to an assignment or transfer thereunder which does not involve a substantial change in ownership or control,

(C) a license under section 319(c) of this title or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license,

(D) extension of time to complete construction of authorized facilities,

(E) an authorization of facilities for remote pickups, studio links and similar facilities for use in the operation of a broadcast station,

(F) authorizations pursuant to section 325(c) of this title where the programs to be transmitted are special events not of a continuing nature,

(G) a special temporary authorization for nonbroadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed or not to exceed sixty days pending the filing of an application for such regular operation, or

(H) an authorization under any of the proviso clauses of section 308(a) of this title.

#### (d) Petition to deny application; time; contents; reply; findings

(1) Any party in interest may file with the Commission a petition to deny any application (whether as originally filed or as amended) to which subsection (b) of this section applies at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing; except that with respect to any classification of applications, the Commission from time to time by rule may specify a shorter period (no less than thirty days following the issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof), which shorter period shall be reasonably related to the time when the applications would normally be reached for processing. The petitioner shall serve a copy of such petition on the applicant. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license). Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant shall

be given the opportunity to file a reply in which allegations of fact or denials thereof shall similarly be supported by affidavit.

(2) If the Commission finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there are no substantial and material questions of fact and that a grant of the application would be consistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license), it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition, which statement shall dispose of all substantial issues raised by the petition. If a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license), it shall proceed as provided in subsection (e) of this section.

**(e) Hearings; intervention; evidence; burden of proof**

If, in the case of any application to which subsection (a) of this section applies, a substantial and material question of fact is presented or the Commission for any reason is unable to make the finding specified in such subsection, it shall formally designate the application for hearing on the ground or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. When the Commission has so designated an application for hearing the parties in interest, if any, who are not notified by the Commission of such action may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

**(f) Temporary authorization of temporary operations under subsection (b)**

When an application subject to subsection (b) of this section has been filed, the Commission, notwithstanding the requirements of such subsection, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would seriously prejudice the public interest, grant a temporary authorization, accompanied by a statement of its reasons therefor, to permit such temporary operations for a

period not exceeding 180 days, and upon making like findings may extend such temporary authorization for additional periods not to exceed 180 days. When any such grant of a temporary authorization is made, the Commission shall give expeditious treatment to any timely filed petition to deny such application and to any petition for rehearing of such grant filed under section 405 of this title.

**(g) Classification of applications**

The Commission is authorized to adopt reasonable classifications of applications and amendments in order to effectuate the purposes of this section.

**(h) Form and conditions of station licenses**

Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this chapter; (3) every license issued under this chapter shall be subject in terms to the right of use or control conferred by section 606 of this title.

**(i) Random selection**

(1) GENERAL AUTHORITY.—Except as provided in paragraph (5), if there is more than one application for any initial license or construction permit, then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) of this section and section 308(b) of this title. When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

(A) adopt procedures for the submission of all or part of the evidence in written form;

(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

(C) omit the determination required by subsection (a) of this section with respect to any application other than the one selected pursuant to paragraph (1).

(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit

would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.

(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

(C) For purposes of this paragraph:

(i) The term “media of mass communications” includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

(ii) The term “minority group” includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

(4)(A) The Commission shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing.

(C) Not later than 180 days after August 10, 1993, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.

(5) TERMINATION OF AUTHORITY.—(A) Except as provided in subparagraph (B), the Commission shall not issue any license or permit using a system of random selection under this subsection after July 1, 1997.

(B) Subparagraph (A) of this paragraph shall not apply with respect to licenses or permits for stations described in section 397(6) of this title.

#### **(j) Use of competitive bidding**

##### **(1) General authority**

If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

##### **(2) Exemptions**

The competitive bidding authority granted by this subsection shall not apply to licenses

or construction permits issued by the Commission—

(A) for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that—

(i) are used to protect the safety of life, health, or property; and

(ii) are not made commercially available to the public;

(B) for initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(C) for stations described in section 397(6) of this title.

#### **(3) Design of systems of competitive bidding**

For each class of licenses or permits that the Commission grants through the use of a competitive bidding system, the Commission shall, by regulation, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round. In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote the purposes specified in section 151 of this title and the following objectives:

(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women;

(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource;

(D) efficient and intensive use of the electromagnetic spectrum;

(E) ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services; and

(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation costs as provided to the Commission pursuant to section 113(g)(4) of such Act.

#### **(4) Contents of regulations**

In prescribing regulations pursuant to paragraph (3), the Commission shall—

(A) consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

(C) consistent with the public interest, convenience, and necessity, the purposes of this chapter, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services;

(D) ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures;

(E) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits; and

(F) prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest.

#### **(5) Bidder and licensee qualification**

No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) of this section and sections 308(b) and 310 of this title. Consistent with the objectives described in paragraph (3), the Commission shall, by regulation, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) of this section for the resolution of any substantial and material issues of fact concerning qualifications.

#### **(6) Rules of construction**

Nothing in this subsection, or in the use of competitive bidding, shall—

(A) alter spectrum allocation criteria and procedures established by the other provisions of this chapter;

(B) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 606 of this title, or any other provision of this chapter (other than subsections (d)(2) and (e) of this section);

(C) diminish the authority of the Commission under the other provisions of this chapter to regulate or reclaim spectrum licenses;

(D) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection;

(E) be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings;

(F) be construed to prohibit the Commission from issuing nationwide, regional, or local licenses or permits;

(G) be construed to prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology; or

(H) be construed to relieve any applicant for a license or permit of the obligation to pay charges imposed pursuant to section 158 of this title.

#### **(7) Consideration of revenues in public interest determinations**

##### **(A) Consideration prohibited**

In making a decision pursuant to section 303(c) of this title to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(C) of this subsection, the Commission may not base a finding of

public interest, convenience, and necessity on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

**(B) Consideration limited**

In prescribing regulations pursuant to paragraph (4)(A) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

**(C) Consideration of demand for spectrum not affected**

Nothing in this paragraph shall be construed to prevent the Commission from continuing to consider consumer demand for spectrum-based services.

**(8) Treatment of revenues**

**(A) General rule**

Except as provided in subparagraphs (B), (D), and (E), all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31.

**(B) Retention of revenues**

Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended. No sums may be retained under this subparagraph during any fiscal year beginning after September 30, 1998, if the annual report of the Commission under section 154(k) of this title for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.

**(C) Deposit and use of auction escrow accounts**

Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

- (i) the deposits of successful bidders shall be paid to the Treasury, except as otherwise provided in subparagraph (E)(ii);
- (ii) the deposits of unsuccessful bidders shall be returned to such bidders; and
- (iii) the interest accrued to the account shall be transferred to the Telecommuni-

cations Development Fund established pursuant to section 614 of this title.

**(D) Disposition of cash proceeds**

Cash proceeds attributable to the auction of any eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act [47 U.S.C. 928], and shall be available in accordance with that section.

**(E) Transfer of receipts**

**(i) Establishment of Fund**

There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

**(ii) Proceeds for funds**

Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

**(iii) Transfer of amount to Treasury**

On September 30, 2009, the Secretary shall transfer \$7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

**(iv) Recovered analog spectrum**

For purposes of clause (i), the term “recovered analog spectrum” has the meaning provided in paragraph (15)(C)(vi).

**(9) Use of former Government spectrum**

The Commission shall, not later than 5 years after August 10, 1993, issue licenses and permits pursuant to this subsection for the use of bands of frequencies that—

- (A) in the aggregate span not less than 10 megahertz; and
- (B) have been reassigned from Government use pursuant to part B of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 921 et seq.].

**(10) Authority contingent on availability of additional spectrum**

**(A) Initial conditions**

The Commission’s authority to issue licenses or permits under this subsection shall not take effect unless—

- (i) the Secretary of Commerce has submitted to the Commission the report required by section 113(d)(1) of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 923(d)(1)];
- (ii) such report recommends for immediate reallocation bands of frequencies that, in the aggregate, span not less than 50 megahertz;
- (iii) such bands of frequencies meet the criteria required by section 113(a) of such Act [47 U.S.C. 923(a)]; and

(iv) the Commission has completed the rulemaking required by section 332(c)(1)(D) of this title.

**(B) Subsequent conditions**

The Commission's authority to issue licenses or permits under this subsection on and after 2 years after August 10, 1993, shall cease to be effective if—

(i) the Secretary of Commerce has failed to submit the report required by section 113(a) of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 923(a)];

(ii) the President has failed to withdraw and limit assignments of frequencies as required by paragraphs (1) and (2) of section 114(a) of such Act [47 U.S.C. 924(a)];

(iii) the Commission has failed to issue the regulations required by section 115(a) of such Act [47 U.S.C. 925(a)];

(iv) the Commission has failed to complete and submit to Congress, not later than 18 months after August 10, 1993, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to ensure that adequate frequencies are made available to public safety licensees; or

(v) the Commission has failed under section 332(c)(3) of this title to grant or deny within the time required by such section any petition that a State has filed within 90 days after August 10, 1993;

until such failure has been corrected.

**(11) Termination**

The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 2012.

**(12) Evaluation**

Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

(A) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection;

(B) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

(C) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

(D) evaluating whether and to what extent—

(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) competitive bidding methodologies have secured prompt delivery of service to rural areas and have adequately addressed the needs of rural spectrum users; and

(iv) small businesses, rural telephone companies, and businesses owned by mem-

bers of minority groups and women were able to participate successfully in the competitive bidding process; and

(E) recommending any statutory changes that are needed to improve the competitive bidding process.

**(13) Recovery of value of public spectrum in connection with pioneer preferences**

**(A) In general**

Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

**(B) Recovery of value**

The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

(iv) reducing such average amount by 15 percent; and

(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

**(C) Installments permitted**

The Commission shall require such person to pay the sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

**(D) Rulemaking on pioneer preferences**

Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

(iii) be prescribed not later than 6 months after December 8, 1994;

(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

**(E) Implementation with respect to pending applications**

In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90-314 (FCC 93-550, released February 3, 1994)—

(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following December 8, 1994, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets (ranked by population) in which no applicant has obtained preferential treatment;

(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than \$400,000,000, and if such amount is less than \$400,000,000, the Commission shall recover an amount equal to \$400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

**(F) Expiration**

The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on August 5, 1997.

**(G) Effective date**

This paragraph shall be effective on December 8, 1994, and apply to any licenses issued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.

**(14) Auction of recaptured broadcast television spectrum**

**(A) Limitations on terms of terrestrial television broadcast licenses**

A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009.

**(B) Spectrum reversion and resale**

(i) The Commission shall—

(I) ensure that, as licenses for analog television service expire pursuant to subparagraph (A), each licensee shall cease using electromagnetic spectrum assigned to such service according to the Commission's direction; and

(II) reclaim and organize the electromagnetic spectrum in a manner consistent with the objectives described in paragraph (3) of this subsection.

(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be assigned in accordance with this subsection.

**(C) Certain limitations on qualified bidders prohibited**

In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the

Commission, for any license that may be used for any digital television service where the grade A contour of the station is projected to encompass the entirety of a city with a population in excess of 400,000 (as determined using the 1990 decennial census), shall not—

(i) preclude any party from being a qualified bidder for such spectrum on the basis of—

(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

(ii) apply either such rule to preclude such a party that is a winning bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

**(15) Commission to determine timing of auctions**

**(A) Commission authority**

Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

**(B) Termination of portions of auctions 31 and 44**

Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June 19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02-659 and DA 02-563).

**(C) Exception**

**(i) Blocks excepted**

Subparagraph (B) shall not apply to the auction of—

(I) the C-block of licenses on the bands of frequencies located at 710–716 megahertz, and 740–746 megahertz; or

(II) the D-block of licenses on the bands of frequencies located at 716–722 megahertz.

**(ii) Eligible bidders**

The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

**(iii) Auction deadlines for excepted blocks**

Notwithstanding subparagraph (B), the auction of the C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be de-

posited in accordance with paragraph (8) not later than December 31, 2002.

**(iv) Report**

Within one year after June 19, 2002, the Commission shall submit a report to Congress—

(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

**(v) Additional deadlines for recovered analog spectrum**

Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

**(vi) Recovered analog spectrum**

For purposes of clause (v), the term "recovered analog spectrum" means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

(I) the spectrum required by section 337 of this title to be made available for public safety services; and

(II) the spectrum auctioned prior to February 8, 2006.

**(D) Return of payments**

Within one month after June 19, 2002, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.

**(16) Special auction provisions for eligible frequencies**

**(A) Special regulations**

The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act.

**(B) Conclusion of auctions contingent on minimum proceeds**

The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act [47 U.S.C. 923(g)(2)] if the total cash proceeds attrib-



utable to such spectrum are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States to bid in any subsequent reauction of such spectrum.

**(C) Authority to issue prior to deauthorization**

In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.

**(k) Broadcast station renewal procedures**

**(1) Standards for renewal**

If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

(A) the station has served the public interest, convenience, and necessity;

(B) there have been no serious violations by the licensee of this chapter or the rules and regulations of the Commission; and

(C) there have been no other violations by the licensee of this chapter or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

**(2) Consequence of failure to meet standard**

If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

**(3) Standards for denial**

If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e) of this section, that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

(A) issue an order denying the renewal application filed by such licensee under section 308 of this title; and

(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 of this title specifying the channel or broadcasting facilities of the former licensee.

**(4) Competitor consideration prohibited**

In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.

**(l) Applicability of competitive bidding to pending comparative licensing cases**

With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall—

(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) of this section to assign such license or permit;

(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding; and

(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on August 5, 1997.

(June 19, 1934, ch. 652, title III, § 309, 48 Stat. 1085; July 16, 1952, ch. 879, § 7, 66 Stat. 715; Mar. 26, 1954, ch. 110, 68 Stat. 35; Jan. 20, 1956, ch. 1, 70 Stat. 3; Pub. L. 86-752, § 4(a), Sept. 13, 1960, 74 Stat. 889; Pub. L. 88-306, May 14, 1964, 78 Stat. 193; Pub. L. 88-307, May 14, 1964, 78 Stat. 194; Pub. L. 97-35, title XII, § 1242(a), Aug. 13, 1981, 95 Stat. 736; Pub. L. 97-259, title I, §§ 114, 115, Sept. 13, 1982, 96 Stat. 1094; Pub. L. 98-549, § 6(b)(1), Oct. 30, 1984, 98 Stat. 2804; Pub. L. 103-66, title VI, § 6002(a), (b)(1), Aug. 10, 1993, 107 Stat. 387, 392; Pub. L. 103-414, title III, §§ 303(a)(16), (17), 304(a)(9), Oct. 25, 1994, 108 Stat. 4295, 4297; Pub. L. 103-465, title VIII, § 801, Dec. 8, 1994, 108 Stat. 5050; Pub. L. 104-104, title II, § 204(a), title IV, § 403(j), title VII, §§ 707(a), 710(c), Feb. 8, 1996, 110 Stat. 112, 131, 154, 161; Pub. L. 105-33, title III, §§ 3002(a)(1)–(3), 3003, Aug. 5, 1997, 111 Stat. 258, 260, 265; Pub. L. 107-195, § 3(a), (b)(1), June 19, 2002, 116 Stat. 716, 717; Pub. L. 108-494, title II, § 203, Dec. 23, 2004, 118 Stat. 3993; Pub. L. 109-171, title III, §§ 3002(a), 3003, 3004, Feb. 8, 2006, 120 Stat. 21, 22; Pub. L. 111-4, §§ 2(b)(2), 5, Feb. 11, 2009, 123 Stat. 112, 114.)

REFERENCES IN TEXT

The National Telecommunications and Information Administration Organization Act, referred to in subsec. (j)(9)(B), is title I of Pub. L. 102-538, Oct. 27, 1992, 106 Stat. 3533, as amended. Part B of the Act is classified generally to subchapter II (§ 921 et seq.) of chapter 8 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

AMENDMENTS

2009—Subsec. (j)(11). Pub. L. 111-4, § 5, substituted “2012” for “2011”.

Subsec. (j)(14)(A). Pub. L. 111-4, § 2(b)(2), substituted “June 12, 2009” for “February 17, 2009”.

2006—Subsec. (j)(8)(A). Pub. L. 109-171, § 3004(1), substituted “subparagraphs (B), (D), and (E)” for “subparagraph (B) or subparagraph (D)”.

Subsec. (j)(8)(C)(i). Pub. L. 109-171, § 3004(2), inserted “, except as otherwise provided in subparagraph (E)(ii)” before semicolon at end.

Subsec. (j)(8)(E). Pub. L. 109-171, §3004(3), added subpar. (E).

Subsec. (j)(11). Pub. L. 109-171, §3003(b), substituted “2011” for “2007”.

Subsec. (j)(14)(A). Pub. L. 109-171, §3002(a)(1), inserted “full-power” before “television broadcast license” and substituted “February 17, 2009” for “December 31, 2006”.

Subsec. (j)(14)(B). Pub. L. 109-171, §3002(a)(2), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to requirement of Commission to extend renewal period upon certain findings.

Subsec. (j)(14)(C). Pub. L. 109-171, §3002(a)(5), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Subsec. (j)(14)(C)(i)(I). Pub. L. 109-171, §3002(a)(3), struck out “or (B)” after “pursuant to subparagraph (A)”.

Subsec. (j)(14)(D). Pub. L. 109-171, §3002(a)(5), redesignated subpar. (D) as (C).

Pub. L. 109-171, §3002(a)(4), substituted “subparagraph (B)(i)” for “subparagraph (C)(i)” in introductory provisions.

Subsec. (j)(15). Pub. L. 109-171, §3003(a)(2), added cls. (v) and (vi) to subpar. (C).

Pub. L. 109-171, §3003(a)(1), redesignated par. (15) relating to special auction provisions for eligible frequencies as (16).

Subsec. (j)(16). Pub. L. 109-171, §3003(a)(1), redesignated par. (15) relating to special auction provisions for eligible frequencies as (16).

2004—Subsec. (j)(3)(F). Pub. L. 108-494, §203(a), added subpar. (F).

Subsec. (j)(8)(A). Pub. L. 108-494, §203(c)(1), inserted “or subparagraph (D)” after “subparagraph (B)”.

Subsec. (j)(8)(D). Pub. L. 108-494, §203(c)(2), added subpar. (D).

Subsec. (j)(15). Pub. L. 108-494, §203(b), added par. (15) relating to special auction provisions for eligible frequencies.

2002—Subsec. (j)(14)(C)(ii). Pub. L. 107-195, §3(b)(1), struck out at end “The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.”

Subsec. (j)(15). Pub. L. 107-195, §3(a), added par. (15). 1997—Subsec. (i)(1). Pub. L. 105-33, §3002(a)(2)(A), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “If—

“(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

“(B) the Commission has determined that the use is not described in subsection (j)(2)(A) of this section; then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.”

Subsec. (i)(5). Pub. L. 105-33, §3002(a)(2)(B), added par. (5).

Subsec. (j)(1), (2). Pub. L. 105-33, §3002(a)(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for filing for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority, subject to paragraph (10), to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

“(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

“(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return for which the licensee—

“(i) enables those subscribers to receive communications signals that are transmitted utilizing fre-

quencies on which the licensee is licensed to operate; or

“(ii) enables those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

“(B) a system of competitive bidding will promote the objectives described in paragraph (3).”

Subsec. (j)(3). Pub. L. 105-33, §3002(a)(1)(B)(i), inserted after second sentence of introductory provisions “The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.”

Subsec. (j)(3)(E). Pub. L. 105-33, §3002(a)(1)(B)(ii)–(iv), added subpar. (E).

Subsec. (j)(4)(F). Pub. L. 105-33, §3002(a)(1)(C), added subpar. (F).

Subsec. (j)(8)(B). Pub. L. 105-33, §3002(a)(1)(D), struck out “Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under subsection (i) of this section shall be used by the Commission to implement this subsection.” after “quarterly basis.” and inserted at end “No sums may be retained under this subparagraph during any fiscal year beginning after September 30, 1998, if the annual report of the Commission under section 154(k) of this title for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.”

Subsec. (j)(11). Pub. L. 105-33, §3002(a)(1)(E), substituted “2007” for “1998”.

Subsec. (j)(13)(F). Pub. L. 105-33, §3002(a)(1)(F), substituted “August 5, 1997” for “September 30, 1998”.

Subsec. (j)(14). Pub. L. 105-33, §3003, added par. (14).

Subsec. (l). Pub. L. 105-33, §3002(a)(3), added subsec. (l).

1996—Subsec. (b)(2)(A) to (G). Pub. L. 104-104, §403(j), redesignated subpars. (B) to (G) as (A) to (F), respectively, and struck out former subpar. (A) which read as follows: “fixed point-to-point microwave stations (exclusive of control and relay stations used as integral parts of mobile radio systems).”

Subsec. (d). Pub. L. 104-104, §204(a)(2), inserted “(or subsection (k) of this section in the case of renewal of any broadcast station license)” after “with subsection (a) of this section” wherever appearing.

Subsec. (j)(8)(B). Pub. L. 104-104, §710(c), inserted at end “Such offsetting collections are authorized to remain available until expended.”

Subsec. (j)(8)(C). Pub. L. 104-104, §707(a), added subpar. (C).

Subsec. (k). Pub. L. 104-104, §204(a)(1), added subsec. (k).

1994—Subsec. (c)(2)(F). Pub. L. 103-414, §303(a)(16), substituted “section 325(c)” for “section 325(b)”.

Subsec. (i)(4)(A). Pub. L. 103-414, §304(a)(9), which directed substitution of “The Commission shall” for “The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall”, was executed by making the substitution for “The Commission, not later than 180 days after the date of the enactment of the Communications Amendments Act of 1982, shall”, which for purposes of codification had been translated as “The Commission, not later than 180 days after September 13, 1982, shall”, to reflect the probable intent of Congress and the amendment by Pub. L. 103-414, §303(a)(17). See below.

Pub. L. 103-414, §303(a)(17), substituted “date of the enactment of the Communications Amendments Act of 1982” for “date of the enactment of the Communications Technical Amendments Act of 1982”, which for purposes of codification had been translated as “September 13, 1982”, thus resulting in no change in text.

Subsec. (j)(13). Pub. L. 103-465 added par. (13).  
 1993—Subsec. (i). Pub. L. 103-66, §6002(b)(1), inserted subsec. heading, added par. (1), struck out former par. (1), and in par. (4), added subpar. (C). Prior to amendment, par. (1) read as follows: “If there is more than one application for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining that each such application is acceptable for filing, shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.”

Subsec. (j). Pub. L. 103-66, §6002(a), added subsec. (j).  
 1984—Subsec. (h). Pub. L. 98-549 substituted “section 706” for “section 606” in the original to accommodate renumbering of sections in subchapter VI (section 601 et seq.) of this chapter by section 6(a) of Pub. L. 98-549. Because both sections translate as “section 606 of this title”, the amendment by section 6(b)(1) of Pub. L. 98-549 resulted in no change in text.

1982—Subsec. (f). Pub. L. 97-259, §114, substituted “temporary” for “emergency” wherever appearing, “additional periods” for “one additional period”, and “180 days” for “ninety days” wherever appearing.

Subsec. (i)(1). Pub. L. 97-259, §115(a), substituted “application” for “applicant” after “more than one”, and “that each such application is acceptable for filing” for “the qualifications of each such applicant under section 308(b) of this title”.

Subsec. (i)(2). Pub. L. 97-259, §115(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The determination of the Commission under paragraph (1) with respect to the qualifications of applicants for an initial license or construction permit shall be made after notice and opportunity for a hearing, except that the provisions of section 409(c)(2) of this title shall not apply in the case of any such determination.”

Subsec. (i)(3)(A). Pub. L. 97-259, §115(c)(1), substituted “used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group” for “groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences”.

Subsec. (i)(3)(C). Pub. L. 97-259, §115(c)(2), added subpar. (C).

Subsec. (i)(4)(A). Pub. L. 97-259, §115(d), substituted “September 13, 1982,” for “August 13, 1981.”

1981—Subsec. (i). Pub. L. 97-35 added subsec. (i).

1964—Subsec. (c)(2)(G). Pub. L. 88-307 inserted “not to exceed sixty days”.

Subsec. (e). Pub. L. 88-306 substituted “not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register” for “at any time not less than ten days prior to the date of hearing”.

1960—Pub. L. 86-752 amended section generally to revise pre-grant procedure, and, among other changes, a public notice was substituted for a mandatory notice to applicants and interested parties before hearings upon applications; the Commission was required to hold applications for 30 days before acting upon them without hearings; interested parties were permitted to file petitions to deny applications before the Commission acted upon them without hearings, in lieu of 30 days after applications were granted; interested parties were required to support their petitions with “specific” allegations of fact; the Commission was permitted to dispense with formal hearings when there are “no substantial or material questions of fact,” subject to a requirement that it issue a “concise statement of the reasons” for its action.

1956—Subsec. (c). Act Jan. 20, 1956, struck out hearings with respect to facts which, even if true, would not

be grounds for setting aside the Commission’s grant; gave the Commission discretion to keep in effect the protested authorization but required the Commission to affirmatively find and set forth that the public interest requires grant to remain in effect; and authorized Commission to redraft issues urged by protestant in accordance with the facts alleged in the protest.

1954—Subsec. (c). Act Mar. 26, 1954, substituted “thirty days” for “fifteen days” in fourth sentence.

1952—Act July 16, 1952, amended section generally to set forth procedure to be followed in cases of denial of applications.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 3002(a)(5) of Pub. L. 105-33 provided that: “Except as otherwise provided therein, the amendments made by this subsection [amending this section] are effective on July 1, 1997.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 204(a) of Pub. L. 104-104 applicable to applications filed after May 1, 1995, see section 204(c) of Pub. L. 104-104, set out as a note under section 308 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

#### EFFECTIVE DATE OF 1960 AMENDMENT

Section 4(d)(1)–(3) of Pub. L. 86-752 provided that:

“(1) Subsections (a) and (b) of this section [amending this section and section 319 of this title] shall take effect ninety days after the date of the enactment of this Act [Sept. 13, 1960].

“(2) Section 309 of the Communications Act of 1934 [this section] (as amended by subsection (a) of this section) shall apply to any application to which section 308 of such Act [section 308 of this title] applies (A) which is filed on or after the effective date of subsection (a) of this section, (B) which is filed before such effective date, but is substantially amended on or after such effective date, or (C) which is filed before such effective date and is not substantially amended on or after such effective date, but with respect to which the Commission by rule provides reasonable opportunity to file petitions to deny in accordance with section 309 of such Act (as amended by subsection (a) of this section) [this section].

“(3) Section 309 of the Communications Act of 1934 [this section], as in effect immediately before the effective date of subsection (a) of this section, shall, on and after such effective date, apply only to applications to which section 308 of such Act [section 308 of this title] apply which are filed before such effective date and not substantially amended on or after such effective date and with respect to which the Commission does not permit petitions to deny to be filed as provided in clause (C) of paragraph (2) of this subsection.”

#### DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

Pub. L. 111-4, §4, Feb. 11, 2009, 123 Stat. 113, provided that:

“(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act [amending this section and section 337 of this title, enacting provisions set out as notes under this section and section 609 of this title, and amending provisions set out as notes under this section] is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station’s analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 [section 3002(b) of Pub. L. 109-171, set out below] for termination of all licenses for full-power television stations in the analog

television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act [Feb. 11, 2009], including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07-228, MB Docket No. 07-91, released December 31, 2007).

“(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act [Feb. 11, 2009], including section 90.545 of the Commission's rules (47 C.F.R. §90.545).

“(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act [Feb. 11, 2009], each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.”

Pub. L. 110-459, Dec. 23, 2008, 122 Stat. 5121, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Short-term Analog Flash and Emergency Readiness Act’.

“SEC. 2. COMMISSION ACTION REQUIRED.

“(a) PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Federal Communications Commission shall, not later than January 15, 2009, develop and implement a program to encourage and permit, to the extent technically feasible and subject to such limitations as the Commission finds to be consistent with the public interest and the requirements of this Act, the broadcasting in the analog television service of only the public safety information and digital transition information specified in subsection (b) during the 30-day period beginning on the day after the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 [section 3002(b) of Pub. L. 109-171, set out below] for termination of all licenses for full-power television stations in the analog television service and the cessation of broadcasting by full-power stations in the analog television service.

“(b) INFORMATION REQUIRED.—The program required by subsection (a) shall provide for the broadcast of—

“(1) emergency information, including critical details regarding the emergency, as broadcast or required to be broadcast by full-power stations in the digital television service;

“(2) information, in both English and Spanish, and accessible to persons with disabilities, concerning—

“(A) the digital television transition, including the fact that a transition has taken place and that additional action is required to continue receiving television service, including emergency notifications; and

“(B) the steps required to enable viewers to receive such emergency information via the digital television service and to convert to receiving digital television service, including a phone number and Internet address by which help with such transition may be obtained in both English and Spanish; and

“(3) such other information related to consumer education about the digital television transition or public health and safety or emergencies as the Commission may find to be consistent with the public interest.

“SEC. 3. LIMITATIONS.

“In designing the program required by this Act, the Commission shall—

“(1) take into account market-by-market needs, based upon factors such as channel and transmitter availability;

“(2) ensure that broadcasting of the program specified in section 2(b) will not cause harmful interference with signals in the digital television service;

“(3) not require the analog television service signals broadcast under this Act to be retransmitted or otherwise carried pursuant to section 325(b), 338, 339, 340, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 325(b), 338, 339, 340, 614 [534], or 615 [535]);

“(4) take into consideration broadcasters' digital power levels and transition and coordination plans that already have been adopted with respect to cable systems and satellite carriers' systems;

“(5) prohibit any broadcast of analog television service signals under section 2(b) on any spectrum that is approved or pending approval by the Commission to be used for public safety radio services, including television channels 14-20; and

“(6) not include the analog spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television broadcasting pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

“SEC. 4. DEFINITIONS.

“As used in this Act, the term ‘emergency information’ has the meaning such term has under part 79 of the regulations of the Federal Communications Commission (47 C.F.R. part 79).”

Pub. L. 109-171, title III, Feb. 8, 2006, 120 Stat. 21, as amended by Pub. L. 110-53, title XXII, §2201(a), title XXIII, §2302, Aug. 3, 2007, 121 Stat. 537, 543; Pub. L. 110-295, §2, July 30, 2008, 122 Stat. 2972; Pub. L. 111-4, §§2(a), (b)(1), 3(a)–(c), Feb. 11, 2009, 123 Stat. 112, 113, provided that:

“SEC. 3001. SHORT TITLE; DEFINITION.

“(a) SHORT TITLE.—This title may be cited as the ‘Digital Television Transition and Public Safety Act of 2005’.

“(b) DEFINITION.—As used in this Act [probably should be ‘this title’], the term ‘Assistant Secretary’ means the Assistant Secretary for Communications and Information of the Department of Commerce.

“SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.

“(a) AMENDMENTS.—[Amended this section.]

“(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

“(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009; and

“(2) to require by that date that all broadcasting by Class A stations, whether in the analog television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

“(c) CONFORMING AMENDMENTS.—[AMENDED SECTION 337 OF THIS TITLE.]

“SEC. 3003. AUCTION OF RECOVERED SPECTRUM.

[Amended this section.]

“SEC. 3004. RESERVATION OF AUCTION PROCEEDS.

[Amended this section.]

“SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

“(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

“(1) implement and administer a program through which households in the United States may obtain

coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

“(2) make payments of not to exceed \$990,000,000, in the aggregate, through fiscal year 2009 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

“(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed \$1,500,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

“(c) PROGRAM SPECIFICATIONS.—

“(1) LIMITATIONS.—

“(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and July 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household redeems no more than two coupons.

“(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

“(C) DURATION.—All coupons shall expire 3 months after issuance.

“(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.

“(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than \$100,000,000 on administrative expenses and shall ensure that the sum of—

“(A) all administrative expenses for the program, including not more than \$5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

“(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed \$990,000,000.

“(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

“(A) paragraph (2) shall be applied—

“(i) by substituting ‘\$160,000,000’ for ‘\$100,000,000’; and

“(ii) by substituting ‘\$1,500,000,000’ for ‘\$990,000,000’;

“(B) subsection (a)(2) shall be applied by substituting ‘\$1,500,000,000’ for ‘\$990,000,000’; and

“(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

“(4) COUPON VALUE.—The value of each coupon shall be \$40.

“(d) DEFINITION OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term ‘digital-to-analog converter box’ means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

“SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

“(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

“(1) may take such administrative action as is necessary to establish and implement—

“(A) a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software and systems that—

“(i) utilize reallocated public safety spectrum for radio communication;

“(ii) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or

“(iii) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands; and

“(B) are used to establish and implement [sic] a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster;

“(2) shall make payments of not to exceed \$1,000,000,000, in the aggregate, through fiscal year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which at least \$75,000,000, in the aggregate, shall be used for purposes described in paragraph (1)(B); and

“(3) shall permit any funds allocated for use under paragraph (1)(B) to be used for purposes identified under paragraph (1)(A), if the public safety agency demonstrates that it has already implemented such a strategic technology reserve or demonstrates higher priority public safety communications needs.

“(b) ELIGIBILITY.—To be eligible for assistance under the grant program established under subparagraph (a)(1)(A), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including a detailed explanation of how assistance received under the program would be used to improve communications interoperability and ensure interoperability with other public safety agencies in an emergency or a major disaster.

“(c) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVES.—

“(1) IN GENERAL.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

“(2) REQUIREMENTS AND CHARACTERISTICS.—Funds provided to meet uses described in paragraph (1) shall be used in support of reserves that—

“(A) are capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster;

“(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

“(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

“(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

“(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

“(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

“(4) ALLOCATION OF FUNDS.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall take into account barriers to immediate deployment, including time and distance, that may slow the rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems) in the event of an emergency in any State.

“(d) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security, shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

“(e) INSPECTOR GENERAL REPORT AND AUDITS.—

“(1) REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Aug. 3, 2007], the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

“(2) AUDITS.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct financial audits of entities receiving grants from the program implemented under subsection (a)(1), and shall ensure that, over the course of 4 years, such audits cover recipients in a representative sample of not fewer than 25 States or territories. The results of any such audits shall be made publicly available via web site, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim- or long-term Internet Protocol-based interoperable solutions.

“(h)[(g)] CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed \$1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

“(i)[(h)] CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

“(j)[(i)] DEFINITIONS.—For purposes of this section:

“(1) PUBLIC SAFETY AGENCY.—The term ‘public safety agency’ means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

“(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term ‘interoperable communications systems’ means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

“SEC. 3007. NYC 9/11 DIGITAL TRANSITION.

“(a) FUNDS AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make payments of not to exceed \$30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary not to exceed \$30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

“(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

“(c) DEFINITIONS.—For purposes of this section:

“(1) METROPOLITAN TELEVISION ALLIANCE.—The term ‘Metropolitan Television Alliance’ means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

“(2) NEW YORK CITY AREA.—The term ‘New York City area’ means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties).

“SEC. 3008. LOW-POWER TELEVISION AND TRANS-LATOR DIGITAL-TO-ANALOG CONVERSION.

“(a) CREATION OF PROGRAM.—

“(1) IN GENERAL.—The Assistant Secretary shall make payments of not to exceed \$10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station’s analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before June 12, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

“(2) USE OF FUNDS.—As soon as practicable after the date of enactment of the DTV Transition Assistance Act [July 30, 2008], the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under [section] 3005(c)(2)(A) of this title), including partnering with,

providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.

“(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary, but not to exceed \$10,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

“(c) ELIGIBLE STATIONS.—For purposes of this section, the term ‘eligible low-power television station’ means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

“(1) that is itself broadcasting exclusively in analog format; and

“(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005 [Feb. 8, 2006].

“SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

“(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed \$65,000,000, in the aggregate, during fiscal years 2009 through 2012 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) [601(b)(2)] of the Rural Electrification Act of 1937 [1936] (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations on or after February 18, 2009. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

“(b) ELIGIBLE STATIONS.—For purposes of this section, the term ‘eligible low-power television station’ means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

“(1) that is itself broadcasting exclusively in analog format; and

“(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005 [Feb. 8, 2006].

“SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.

“The Assistant Secretary shall make payments of not to exceed \$156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement a unified national alert system capable of alerting the public, on a national, regional, or local basis to emergency situations by using a variety of communications technologies. The Assistant Secretary shall use \$50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

“SEC. 3011. ENHANCE 911.

“(a) IN GENERAL.—The Assistant Secretary shall make payments of not to exceed \$43,500,000, in the ag-

gregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004 [title I of Pub. L. 108-494, see Short Title of 2004 Amendment note set out under section 901 of this title].

“(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of the 911 Modernization Act [Aug. 3, 2007], such sums as necessary, but not to exceed \$43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

“SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.

“(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds \$110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make \$15,000,000 available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

“(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

“(1) appropriated for that fiscal year; or

“(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

“(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums as may be necessary, but not to exceed \$30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

“SEC. 3013. SUPPLEMENTAL LICENSE FEES.

“In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of \$10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.”

[Pub. L. 111-4, §3(d), Feb. 11, 2009, 123 Stat. 113, provided that: “The amendments made by this section [amending section 3005(c)(1) of Pub. L. 109-171, set out above] shall not take effect until the enactment of additional budget authority after the date of enactment of this Act [Feb. 11, 2009] to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005 [section 3005 of Pub. L. 109-171, set out above].”]

FINDINGS

Pub. L. 107-195, §2, June 19, 2002, 116 Stat. 715, provided that: “Congress finds the following:

“(1) Circumstances in the telecommunications market have changed dramatically since the auctioning of spectrum in the 700 megahertz band was originally mandated by Congress in 1997, raising serious questions as to whether the original deadlines, or the subsequent revision of the deadlines, are consistent with sound telecommunications policy and spectrum management principles.

“(2) No comprehensive plan yet exists for allocating additional spectrum for third-generation wireless and other advanced communications services. The Federal Communications Commission should have the flexibility to auction frequencies in the 700 megahertz band for such purposes.

“(3) The study being conducted by the National Telecommunications and Information Administration in consultation with the Department of Defense to determine whether the Department of Defense can share or relinquish additional spectrum for third generation wireless and other advanced communications services will not be completed until after the June 19th auction date for the upper 700 megahertz band, and long after the applications must be filed to participate in the auction, thereby creating further uncertainty as to whether the frequencies in the 700 megahertz band will be put to their highest and best use for the benefit of consumers.

“(4) The Federal Communications Commission is also in the process of determining how to resolve the interference problems that exist in the 800 megahertz band, especially for public safety. One option being considered for the 800 megahertz band would involve the 700 megahertz band. The Commission should not hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.

“(5) The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television is completed. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most productive use.

“(6) The Commission’s rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations—

“(A) produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services any earlier than the existing statutory framework provides; and

“(B) should advance the transition of digital television and must not result in the unjust enrichment of any incumbent licensee.”

#### COMPLIANCE WITH AUCTION AUTHORITY

Pub. L. 107-195, § 4, June 19, 2002, 116 Stat. 717, provided that: “The Federal Communications Commission shall conduct rescheduled auctions 31 and 44 prior to the expiration of the auction authority under section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)).”

#### PRESERVATION OF BROADCASTER OBLIGATIONS

Pub. L. 107-195, § 5, June 19, 2002, 116 Stat. 717, provided that: “Nothing in this Act [see Short Title of 2002 Amendment note set out under section 609 of this title] shall be construed to relieve television broadcast station licensees of the obligation to complete the digital television service conversion as required by section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).”

#### DEADLINE FOR COLLECTION

Pub. L. 105-33, title III, § 3007, Aug. 5, 1997, 111 Stat. 269, which provided that the Commission was to conduct the competitive bidding required under title III of Pub. L. 105-33, which enacted section 337 of this title, amended this section and sections 153, 303, and 923 to 925 of this title, enacted provisions set out as notes under this section and sections 153, 254, and 925 of this title, and repealed provisions set out as a note under this section, in a manner that ensured that all proceeds of such bidding would be deposited in accordance with section 309(j)(8) of this title not later than Sept. 30, 2002, was repealed by Pub. L. 107-195, § 3(b)(2), June 19, 2002, 116 Stat. 717.

#### ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS

Section 3008 of title III of Pub. L. 105-33 provided that: “Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for frequencies assigned under this title [enacting section 337 of this title, amending this section and sections 153, 303, and 923 to 925 of this title, enacting provisions set out as notes under this section and sections 153, 254, and 925 of this title, and repealing provisions set out as a note under this section] (or amendments made by this title) shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.”

#### DEADLINES FOR COMMISSION ACTION REGARDING COMPETITIVE BIDDING

Section 6002(d)(1), (2) of Pub. L. 103-66 provided that: “(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe regulations to implement section 309(j) of the Communications Act of 1934 [47 U.S.C. 309(j)] (as added by this section) within 210 days after the date of enactment of this Act [Aug. 10, 1993].

“(2) PCS ORDERS AND LICENSING.—The Commission shall—

“(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled ‘Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies’ (ET Docket No. 92-9); and (ii) in the matter entitled ‘Amendment of the Commission’s Rules to Establish New Personal Communications Services’ (GEN Docket No. 90-314; ET Docket No. 92-100); and

“(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.”

#### SPECIAL RULE REGARDING SUBSECTION (i) LICENSES AND PERMITS

Section 6002(e) of Pub. L. 103-66, which provided for exceptions to ban on Federal Communications Commission issuance of licenses and permits under section 309(i) of this title after Aug. 10, 1993, was repealed by Pub. L. 105-33, title III, § 3002(a)(4), Aug. 5, 1997, 111 Stat. 260.

#### AUTHORITY TO USE THE SYSTEM OF RANDOM SELECTION WITH RESPECT TO APPLICATIONS FOR INITIAL LICENSES AND CONSTRUCTION PERMITS

Section 1242(b) of Pub. L. 97-35 provided that: “The Commission shall have authority to use the system of random selection established by the Commission under section 309(i) of the Communications Act of 1934 [subsec. (i) of this section], as added in subsection (a), with respect to any application for an initial license or construction permit which will involve any use of the electromagnetic spectrum and which—

“(1) is filed with the Commission after the date of the enactment of this Act [Aug. 13, 1981]; or

“(2) is pending before the Commission on such date of enactment but has not been designated for hearing on or before such date of enactment.”

### § 310. License ownership restrictions

#### (a) Grant to or holding by foreign government or representative

The station license required under this chapter shall not be granted to or held by any foreign government or the representative thereof.