

111TH CONGRESS
1ST SESSION

H. R. 3019

To amend the National Telecommunications and Information Administration Organization Act to improve the process of reallocation of spectrum from Federal Government uses to commercial uses.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2009

Mr. INSLEE (for himself, Mr. UPTON, and Mr. BOUCHER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the National Telecommunications and Information Administration Organization Act to improve the process of reallocation of spectrum from Federal Government uses to commercial uses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Spectrum Relocation
5 Improvement Act of 2009”.

1 **SEC. 2. RIGHTS AND RESPONSIBILITIES OF FEDERAL ENTI-**
2 **TIES IN THE SPECTRUM RELOCATION PROC-**
3 **ESS.**

4 (a) **ELIGIBLE FEDERAL ENTITIES.**—Section
5 113(g)(1) of the National Telecommunications and Infor-
6 mation Administration Organization Act (47 U.S.C.
7 923(g)(1)) is amended to read as follows:

8 “(1) **ELIGIBLE FEDERAL ENTITIES.**—Any Fed-
9 eral entity, as defined in subsection (i), that operates
10 a Federal Government station assigned to a band of
11 eligible frequencies, as described in paragraph (2),
12 and that incurs relocation costs because of the re-
13 allocation of frequencies from Federal use to non-
14 Federal use shall receive payment for such costs
15 from the Spectrum Relocation Fund if the Federal
16 entity is found by the Office of Management and
17 Budget (‘OMB’) to comply with the requirements of
18 this section and section 118. For purposes of this
19 paragraph, Federal power agencies exempted under
20 subsection (c)(4) that choose to relocate from the
21 frequencies identified for reallocation pursuant to
22 subsection (a) are eligible to receive payment under
23 this paragraph.”.

24 (b) **PUBLIC INFORMATION ON RELOCATION PROC-**
25 **ESS.**—Section 113(g) of such Act (47 U.S.C. 923(g)) is
26 amended by redesignating paragraph (6) as paragraph (7)

1 and by inserting after paragraph (5) the following new
2 paragraph:

3 “(6) PUBLIC NOTICE OF RELOCATION PLANS.—

4 “(A) Not later than 60 days after the date
5 on which the NTIA, on behalf of eligible Fed-
6 eral entities and after review by OMB, notifies
7 the Commission of estimated relocation costs
8 and timelines for such relocation as required by
9 subsection (g)(4)(A), NTIA shall post on its
10 website detailed transition plans from each of
11 the eligible Federal entities. Each Federal enti-
12 ty’s transition plan shall provide the public with
13 the following information about its spectrum re-
14 location requirements:

15 “(i) Current use of the spectrum.

16 “(ii) Geographic location of the Fed-
17 eral entities’ facilities or systems.

18 “(iii) Frequency bands used by such
19 facilities or systems, described by geo-
20 graphic location.

21 “(iv) The steps to be taken by the
22 Federal entity to relocate its current spec-
23 trum uses from the eligible frequencies, de-
24 tailed according to timelines for specific
25 geographic locations in sufficient detail to

1 indicate when use of such frequencies at
2 specific locations will be shared between
3 the Federal entity and the commercial li-
4 censee.

5 “(v) The specific interactions between
6 eligible Federal entities and NTIA needed
7 to implement the transition plan.

8 “(vi) The professional staff, including
9 managers, who are responsible for the Fed-
10 eral entity’s relocation efforts and who are
11 authorized to meet and negotiate with
12 commercial licensees regarding the reloca-
13 tion process.

14 “(vii) The Federal entity’s plans and
15 timeline for using relocation funds received
16 from the Spectrum Relocation Fund.

17 “(viii) The Federal entity’s plans and
18 timeline for procuring new equipment and
19 additional personnel needed for the reloca-
20 tion.

21 “(ix) The Federal entity’s plans and
22 timeline for field-testing and deploying new
23 equipment needed in the relocation.

1 “(x) The Federal entity’s plans and
2 timeline for hiring and relying on contract
3 personnel, if any.

4 “(xi) Risk factors in the relocation
5 process that could affect the Federal enti-
6 ty’s fulfillment of its transition plan.

7 “(B) To be eligible to receive payment for
8 relocation costs from the Spectrum Relocation
9 Fund—

10 “(i) Federal entities shall make the
11 transition plans described in this sub-
12 section available to NTIA at least 60 days
13 prior to the date that NTIA must make
14 such plans publicly available on its website
15 pursuant to subparagraph (A), in a com-
16 mon format to be specified by NTIA after
17 public input; and

18 “(ii) each transition plan shall be
19 evaluated by a standing 3-member tech-
20 nical panel (in this section referred to as
21 the ‘Technical Panel’), which shall report
22 to NTIA and to the Federal entity, within
23 30 days after the plan’s submission to
24 NTIA, on the sufficiency of the plan under
25 this paragraph, including whether the re-

1 required public information is included and
2 whether proposed timelines and estimated
3 relocation costs are reasonable.

4 “(C) The Director of OMB, the Adminis-
5 trator of NTIA, and the Chairman of the FCC
6 shall each appoint one member to the Technical
7 Panel, and each such member shall be a radio
8 engineer or technical expert not employed by, or
9 a paid consultant to, any Federal or State gov-
10 ernmental agency. NTIA shall adopt regulations
11 to govern the workings of the Technical Panel
12 after public notice and comment, subject to
13 OMB approval, and the members of the Tech-
14 nical Panel shall be appointed, within 180 days
15 of the date of enactment of the Spectrum Relo-
16 cation Improvement Act of 2008.

17 “(D) If any of the information otherwise
18 required in subparagraph (g)(6) is ‘classified in-
19 formation,’ as that term is defined in section
20 798(b) of title 18, United States Code, the Fed-
21 eral entity’s transition plan shall explain the ex-
22 clusion of any such information as specifically
23 as possible, shall make all relevant non-classi-
24 fied information available in its transition plan,
25 and shall discuss as a risk factor the extent of

1 the classified information and the effect on the
2 relocation process of the classified informa-
3 tion.”.

4 (c) SHARING AND COORDINATION OF SPECTRUM BE-
5 TWEEN COMMERCIAL LICENSEES AND FEDERAL ENTI-
6 TIES DURING RELOCATION TRANSITION.—Section 118 of
7 such Act (47 U.S.C. 928) is amended by adding at the
8 end the following new subsections:

9 “(f) ELIGIBILITY FOR PAYMENT OF RELOCATION
10 COSTS.—

11 “(1) SPECTRUM SHARING.—To be eligible to re-
12 ceive payment for relocation costs from the Spec-
13 trum Relocation Fund, a Federal entity must—

14 “(A) in its transition plan for relocating its
15 current spectrum uses, provide, to the fullest
16 extent possible, for sharing and coordination of
17 eligible frequencies with commercial licensees,
18 including reasonable accommodation by the
19 Federal entity for the use of eligible frequencies
20 by the commercial licensee during the period
21 that the Federal entity is relocating its spec-
22 trum uses (in this subsection referred to as the
23 ‘transition period’);

24 “(B) during the transition period, make
25 itself available, within 30 days after a written

1 request, for negotiation and discussion with
2 commercial licensees; and

3 “(C) during the transition period, make
4 available to a commercial licensee with appro-
5 priate security clearances any ‘classified infor-
6 mation’ as that term is defined in section
7 798(b) of title 18, United States Code, regard-
8 ing the relocation process, on a need-to-know
9 basis, to assist the commercial licensee in the
10 relocation process with that Federal entity or
11 other Federal entities.

12 “(2) TIMELY AND SUCCESSFUL COMPLETION
13 OF RELOCATION.—In addition to the conditions of
14 paragraph (1), to be eligible to receive payment for
15 relocation costs from the Spectrum Relocation Fund,
16 a Federal entity must—

17 “(A) complete the relocation of its current
18 spectrum uses not later than 1 year after the
19 date upon which funds are transferred to the
20 entity to fund the relocation unless, prior to the
21 date that NTIA is required to post publicly the
22 Federal entity’s transition plan, the Federal en-
23 tity receives written approval from OMB, with
24 advice of NTIA, for a different time period for
25 completion; and

1 “(B) make available to NTIA, not later
2 than 15 days prior to the date that is the half-
3 way point of the time period described in sub-
4 paragraph (A), a complete update of its transi-
5 tion plan. NTIA shall post such update publicly
6 on its website not later than the date that is the
7 halfway point of the time period described in
8 subparagraph (A).

9 “(3) Nothing in paragraphs (1) or (2) shall be
10 construed to adversely affect critical communications
11 related to the mission of any Federal entity.

12 “(4) Subject to subsection (d), payments for re-
13 location costs from the Spectrum Relocation Fund
14 shall be made to an eligible Federal entity not later
15 than 30 days after the grant of the first license fol-
16 lowing the close of the auction.

17 “(g) DISPUTE RESOLUTION PROCESS.—

18 “(1) If, during the spectrum relocation process,
19 a dispute arises over the execution, timing, or cost
20 of the Federal entity’s transition plan, either the
21 Federal entity or the affected commercial licensee
22 may seek resolution of the dispute from a 3-member
23 dispute resolution board, consisting of a representa-
24 tive of OMB, NTIA, and the Commission, and
25 chaired by the representative of OMB.

1 “(2) The dispute resolution board shall meet
2 with representatives of the Federal entity and the
3 commercial licensee together to discuss the dispute.
4 The dispute resolution board may require the parties
5 to make written submissions to it. The dispute reso-
6 lution board shall rule on any dispute within 28 days
7 after the date that the dispute was brought before
8 it.

9 “(3) The dispute resolution board shall be as-
10 sisted by the Technical Panel described in section
11 113(g)(6)(C).

12 “(4) Subject to OMB approval, NTLA shall
13 adopt regulations to govern the working of the dis-
14 pute resolution board and the role of the Technical
15 Panel after public notice and comment within 180
16 days after the date of enactment of the Spectrum
17 Relocation Improvement Act of 2009.

18 “(5) Appeals may be taken from decisions of
19 the dispute resolution board to the United States
20 Court of Appeals for the District of Columbia Cir-
21 cuit by filing a notice of appeal with that court with-
22 in 30 days after the date of such decision. Each
23 party shall bear its own costs and expenses, includ-

1 ing attorneys' fees, for any litigation to enforce this
2 subsection or any decision rendered under it.”.

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