

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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## 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

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## 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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