

112TH CONGRESS
2D SESSION

S. 3433

To require a radio spectrum inventory of bands managed by the Federal Communications Commission and the National Telecommunications & Information Administration.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2012

Ms. SNOWE (for herself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require a radio spectrum inventory of bands managed by the Federal Communications Commission and the National Telecommunications & Information Administration.

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 “Radio Spectrum Inven-
5 tory Act of 2012”.

6 **SEC. 2. SPECTRUM INVENTORY.**

7 (a) AMENDMENT TO COMMUNICATIONS ACT.—Part
8 I of title III of the Communications Act of 1934 (47

1 U.S.C. 301 et seq.) is amended by adding at the end the
 2 following:

3 **“SEC. 343. SPECTRUM INVENTORY.**

4 “(a) RADIO SPECTRUM INVENTORY.—Not later than
 5 1 year after the date of enactment of the Radio Spectrum
 6 Inventory Act of 2012, and biennially thereafter, the Com-
 7 mission, in consultation with the NTIA and the Office of
 8 Science and Technology Policy, shall carry out the fol-
 9 lowing activities:

10 “(1) REPORT.—Prepare a report that includes
 11 an inventory of each radio spectrum band, from 300
 12 Megahertz to 6.5 Gigahertz, at a minimum, man-
 13 aged by each such agency. Except as provided in
 14 subsection (b), the report shall include—

15 “(A) the licensee or Federal Government
 16 user authorized in the band;

17 “(B) the total spectrum authorized for
 18 each licensee or Federal Government user (in
 19 percentage terms and in sum) in the band;

20 “(C) the approximate number of transmit-
 21 ters, end-user terminals, or receivers, excluding
 22 unintended radiators, that have been deployed
 23 or authorized, for each licensee or Federal Gov-
 24 ernment user, in the band; and

25 “(D) if such information is available—

1 “(i) the type of transmitters, end-user
2 terminals, or receivers, excluding unin-
3 tended radiators, operating in the band
4 and whether they are space-, air-, or
5 ground-based;

6 “(ii) the type of transmitters, end-
7 user terminals, or receivers, excluding un-
8 intended radiators, authorized to operate
9 in the band and whether they are space-,
10 air-, or ground-based;

11 “(iii) contour maps or other informa-
12 tion that illustrate the coverage area, re-
13 ceiver performance, and other parameters
14 relevant to an assessment of the avail-
15 ability of spectrum in each band;

16 “(iv) the approximate geo-location of
17 base stations or fixed transmitters;

18 “(v) the approximate extent of use, by
19 geography, of each band of frequencies,
20 such as the amount and percentage of time
21 of use, number of end-users, or other
22 measures as appropriate to the particular
23 band;

24 “(vi) the activities, capabilities, func-
25 tions, or missions supported by the trans-

1 mitters, end-user terminals, or receivers;
2 and

3 “(vii) the types of unlicensed devices
4 authorized to operate in the band.

5 “(2) PUBLIC ACCESS.—Create a centralized
6 portal or website utilizing data from the Commission
7 and the NTIA to make a centralized inventory of the
8 bands of each agency available to the public via an
9 Internet-accessible and searchable website.

10 “(3) UPDATES.—Make all reasonable efforts to
11 maintain and update the information required under
12 paragraph (2) no less frequently than quarterly to
13 reflect, at a minimum, any transfer or auction of li-
14 censes or change in allocation, assignment, or au-
15 thorization.

16 “(b) NATIONAL SECURITY; CLASSIFIED INFORMA-
17 TION.—

18 “(1) IN GENERAL.—If the head of a Federal
19 agency determines that disclosure of information re-
20 quired by subsection (a) would be harmful to the na-
21 tional security of the United States, the agency
22 shall—

23 “(A) notify the NTIA of its determination;
24 and

25 “(B) provide to the NTIA—

1 “(i) the other publicly releasable infor-
 2 mation required by subsection (a);

3 “(ii) to the maximum extent prac-
 4 ticable, a summary description of the infor-
 5 mation with respect to which the deter-
 6 mination was made; and

7 “(iii) an annex containing the infor-
 8 mation with respect to which the deter-
 9 mination was made.

10 “(2) CLASSIFIED INFORMATION.—If the head
 11 of a Federal agency determines that any information
 12 required by subsection (a) is classified in accordance
 13 with Executive Order 13526 of December 29, 2009,
 14 or any successor Executive order establishing or
 15 modifying the uniform system for classifying, safe-
 16 guarding, and declassifying national security infor-
 17 mation, the agency shall—

18 “(A) notify the NTIA of its determination;

19 and

20 “(B) provide to the NTIA—

21 “(i) the information required by sub-
 22 section (a)(1) that is not classified;

23 “(ii) to the maximum extent prac-
 24 ticable, a summary description of the infor-
 25 mation that is classified; and

1 “(iii) an annex containing the infor-
2 mation that is classified.

3 “(3) ANNEX RESTRICTION.—The NTIA shall
4 make an annex described in paragraph (1)(B)(iii) or
5 (2)(B)(iii) available to the Commission. Neither the
6 NTIA nor the Commission may make any such
7 annex available to the public pursuant to subsection
8 (a)(2) or to any unauthorized person through any
9 other means.

10 “(c) PUBLIC SAFETY NONDISCLOSURE.—

11 “(1) IN GENERAL.—If a licensee of non-Federal
12 spectrum determines that public disclosure of certain
13 information held by that licensee and required to be
14 included in the report under subsection (a) would re-
15 veal information for which public disclosure would be
16 detrimental to public safety, or that the licensee is
17 otherwise prohibited by law from disclosing, the li-
18 censee may petition the Commission for a partial or
19 total exemption from inclusion on the centralized
20 portal or website under subsection (a)(2) and in the
21 reports required under subsection (d).

22 “(2) BURDEN.—A licensee seeking an exemp-
23 tion under this subsection bears the burden of justi-
24 fying the exemption and shall provide clear and con-
25 vincing evidence to support the requested exemption.

1 “(3) INFORMATION REQUIRED.—If the Com-
2 mission grants an exemption under this subsection,
3 the licensee shall provide to the Commission—

4 “(A) the publicly releasable information re-
5 quired by subsection (a)(1) for the inventory;

6 “(B) to the maximum extent practicable, a
7 summary description, suitable for public re-
8 lease, of the information for which public disclo-
9 sure would be detrimental to public safety or
10 that the licensee is prohibited by law from dis-
11 closing; and

12 “(C) an annex, under appropriate cover,
13 containing the information that the Commission
14 has determined should be withheld from public
15 disclosure.

16 “(d) INFORMING THE CONGRESS.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (3), the NTIA and the Commission shall sub-
19 mit each report required by subsection (a)(1) to the
20 appropriate Congressional committees.

21 “(2) NONDISCLOSURE OF ANNEXES.—Each
22 such report shall be submitted in unclassified form,
23 but may include one or more annexes as provided for
24 by subsections (b)(1)(B)(iii), (b)(2)(B)(iii), and
25 (c)(3)(C). No Congressional committee may make

1 any such annex available to the public or to any un-
 2 authorized person.

3 “(3) CLASSIFIED ANNEXES.—If a report in-
 4 cludes a classified annex as provided for by sub-
 5 section (b)(2)(B)(iii), the NTIA and the Commission
 6 shall—

7 “(A) submit the classified annex only to
 8 the appropriate Congressional committees with
 9 primary oversight jurisdiction for the user agen-
 10 cies or licensees concerned; and

11 “(B) provide notice of the submission to
 12 the other appropriate Congressional commit-
 13 tees.

14 “(e) DEFINITIONS.—In this section:

15 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
 16 TEES.—The term ‘appropriate Congressional com-
 17 mittees’ means the Committee on Commerce,
 18 Science, and Transportation of the Senate, the Com-
 19 mittee on Energy and Commerce of the House of
 20 Representatives, and any other congressional com-
 21 mittee with primary oversight jurisdiction for the
 22 user agencies or licensees concerned.

23 “(2) NTIA.—The term ‘NTIA’ means the Na-
 24 tional Telecommunications and Information Admin-
 25 istration.”.

1 (b) PROGRESS REPORT.—Not later than 180 days
2 after the date of enactment of this Act, the Commission
3 and the National Telecommunications and Information
4 Administration shall provide an update as to the status
5 of the inventory and report required by section 343(a) of
6 the Communications Act of 1934, as added by subsection
7 (a) of this Act, to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Represent-
9 atives Committee on Energy and Commerce.

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