

111TH CONGRESS
2D SESSION

H. R. 3125

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Radio Spectrum Inven-
3 tory Act”.

4 **SEC. 2. SPECTRUM INVENTORY.**

5 Part B of title I of the National Telecommunications
6 and Information Administration Organization Act (47
7 U.S.C. 921 et seq.) is amended by adding at the end the
8 following:

9 **“SEC. 119. SPECTRUM INVENTORY.**

10 “(a) RADIO SPECTRUM INVENTORY.—In order to
11 promote the efficient use of the electromagnetic spectrum,
12 the NTIA and the Commission shall coordinate and carry
13 out each of the following activities not later than 1 year
14 after the date of enactment of this section:

15 “(1) Except as provided in subsection (e), cre-
16 ate an inventory of each radio spectrum band of fre-
17 quencies listed in the United States Table of Fre-
18 quency Allocations, from 225 megahertz to, at a
19 minimum, 3.7 gigahertz, and to 10 gigahertz unless
20 the NTIA and the Commission determine that the
21 burden of expanding the inventory outweighs the
22 benefit, that includes—

23 “(A) the radio services authorized to oper-
24 ate in each band of frequencies;

1 “(B) the identity of each Federal or non-
2 Federal user within each such radio service au-
3 thorized to operate in each band of frequencies;

4 “(C) the activities, capabilities, functions,
5 or missions (including whether such activities,
6 capabilities, functions, or missions are space-
7 based, air-based, or ground-based) supported by
8 the transmitters, end-user terminals or receiv-
9 ers, or other radio frequency devices authorized
10 to operate in each band of frequencies;

11 “(D) the total amount of spectrum, by
12 band of frequencies, assigned or licensed to
13 each Federal or non-Federal user (in percent-
14 age terms and in sum) and the geographic
15 areas covered by their respective assignments or
16 licenses;

17 “(E) the approximate number of transmit-
18 ters, end-user terminals or receivers, or other
19 radio frequency devices authorized to operate,
20 as appropriate to characterize the extent of use
21 of each radio service in each band of fre-
22 quencies;

23 “(F) an approximation of the extent to
24 which each Federal or non-Federal user is
25 using, by geography, each band of frequencies,

1 such as the amount and percentage of time of
2 use, number of end users, or other measures as
3 appropriate to the particular band and radio
4 service; and

5 “(G) to the greatest extent possible—

6 “(i) contour maps or other informa-
7 tion that illustrate the coverage area, re-
8 ceiver performance, and other parameters
9 relevant to an assessment of the avail-
10 ability of spectrum in each band;

11 “(ii) for each band or range of fre-
12 quencies, the identity of each entity offer-
13 ing unlicensed services and the types and
14 approximate number of unlicensed inten-
15 tional radiators verified or certified by the
16 Commission that are authorized to operate;
17 and

18 “(iii) for non-Federal users, any com-
19 mercial names under which facilities-based
20 service is offered to the public using the
21 spectrum of the non-Federal user, includ-
22 ing the commercial names under which the
23 spectrum is being offered through resale.

24 “(2) Except as provided in subsection (e), cre-
25 ate a centralized portal or Web site to make the in-

1 ventionary of the bands of frequencies required under
2 paragraph (1) available to the public.

3 “(b) USE OF AGENCY RESOURCES.—In creating the
4 inventory described in subsection (a)(1), the NTIA and
5 the Commission shall first use agency resources, including
6 existing databases, field testing, and recordkeeping sys-
7 tems, and only request information from Federal and non-
8 Federal users if such information cannot be obtained
9 using such agency resources.

10 “(c) REPORTS.—

11 “(1) IN GENERAL.—Except as provided in sub-
12 section (e), not later than 2 years after the date of
13 enactment of this section and biennially thereafter,
14 the NTIA and the Commission shall submit a report
15 to the Committee on Commerce, Science, and Trans-
16 portation of the Senate and to the Committee on
17 Energy and Commerce of the House of Representa-
18 tives containing—

19 “(A) the results of the inventory created
20 under subsection (a)(1), including any update
21 to the information in the inventory pursuant to
22 subsection (d);

23 “(B) a description of any information the
24 NTIA or the Commission determines is nec-

1 essary for such inventory but that is unavail-
2 able; and

3 “(C) a description of any information not
4 provided by any Federal or non-Federal user in
5 accordance with subsections (e)(1)(B)(ii) and
6 (e)(2)(C)(ii).

7 “(2) RELOCATION REPORT.—

8 “(A) IN GENERAL.—Except as provided in
9 subsection (e), the NTIA and the Commission
10 shall submit a report to the Committee on Com-
11 merce, Science, and Transportation of the Sen-
12 ate and the Committee on Energy and Com-
13 merce of the House of Representatives con-
14 taining a recommendation of which spectrum, if
15 any, should be reallocated or otherwise made
16 available for shared access and an explanation
17 of the basis for that recommendation.

18 “(B) DEADLINES.—The report required
19 under subparagraph (A) shall be submitted not
20 later than 2 years after the date of enactment
21 of this section and every 2 years thereafter.

22 “(3) INVENTORY REPORT.—If the NTIA and
23 the Commission have not conducted an inventory
24 under subsection (a) to 10 gigahertz at least 90 days
25 before the third report required under paragraph (1)

1 is submitted, the NTIA and the Commission shall
2 include an evaluation in such report and in every re-
3 port thereafter of whether the burden of expanding
4 the inventory to 10 gigahertz outweighs the benefit
5 until such time as the NTIA and the Commission
6 have conducted the inventory to 10 gigahertz.

7 “(d) MAINTENANCE AND UPDATING OF INFORMA-
8 TION.—After the creation of the inventory required by
9 subsection (a)(1), the NTIA and the Commission shall
10 make all reasonable efforts to maintain and update the
11 information required under such subsection on a quarterly
12 basis, including when there is a transfer or auction of a
13 license or a change in a permanent assignment or license.

14 “(e) NATIONAL SECURITY AND PUBLIC SAFETY IN-
15 FORMATION.—

16 “(1) NONDISCLOSURE.—

17 “(A) IN GENERAL.—If the head of an ex-
18 ecutive agency of the Federal Government de-
19 termines that public disclosure of certain infor-
20 mation held by that agency or a licensee of non-
21 Federal spectrum and required by subsection
22 (a), (c), or (d) would reveal classified national
23 security information or other information for
24 which there is a legal basis for nondisclosure
25 and such public disclosure would be detrimental

1 to national security, homeland security, or pub-
2 lic safety, the agency head shall notify the
3 NTIA of that determination and shall include
4 descriptions of the activities, capabilities, func-
5 tions, or missions (including whether they are
6 space-based, air-based, or ground-based) sup-
7 ported by the information being withheld.

8 “(B) INFORMATION PROVIDED.—The
9 agency head shall provide to NTIA—

10 “(i) the publicly releasable informa-
11 tion required by subsection (a)(1);

12 “(ii) to the maximum extent prac-
13 ticable, a summary description, suitable for
14 public release, of the classified national se-
15 curity information or other information for
16 which there is a legal basis for nondisclo-
17 sure; and

18 “(iii) a classified annex, under appro-
19 priate cover, containing the classified na-
20 tional security information or other infor-
21 mation for which there is a legal basis for
22 nondisclosure that the agency head has de-
23 termined must be withheld from public dis-
24 closure.

25 “(2) PUBLIC SAFETY NONDISCLOSURE.—

1 “(A) IN GENERAL.—If a licensee of non-
2 Federal spectrum determines that public disclo-
3 sure of certain information held by that licensee
4 and required to be submitted by subsection (a),
5 (c), or (d) would reveal information for which
6 public disclosure would be detrimental to public
7 safety, or the licensee is otherwise prohibited by
8 law from disclosing the information, the licensee
9 may petition the Commission for a partial or
10 total exemption from inclusion on the central-
11 ized portal or Web site under subsection (a)(2)
12 and in the report required by subsection (c).

13 “(B) BURDEN.—The licensee seeking an
14 exemption under this paragraph bears the bur-
15 den of justifying the exemption and shall pro-
16 vide clear and convincing evidence to support
17 such an exemption.

18 “(C) INFORMATION REQUIRED.—If an ex-
19 emption is granted under this paragraph, the li-
20 censee shall provide to the Commission—

21 “(i) the publicly releasable informa-
22 tion required by subsection (a)(1) for the
23 inventory;

24 “(ii) to the maximum extent prac-
25 ticable, a summary description, suitable for

1 public release, of the information for which
2 public disclosure would be detrimental to
3 public safety or the licensee is otherwise
4 prohibited by law from disclosing; and

5 “(iii) an annex, under appropriate
6 cover, containing the information that the
7 Commission has determined should be
8 withheld from public disclosure.

9 “(3) ADDITIONAL DISCLOSURE.—The annexes
10 required under paragraphs (1)(B)(iii) and (2)(C)(iii)
11 shall be provided to the congressional committees
12 listed in subsection (c), but shall not be disclosed to
13 the public under subsection (a) or subsection (d) or
14 provided to any unauthorized person through any
15 other means.

16 “(4) NATIONAL SECURITY COUNCIL CONSULTA-
17 TION.—Prior to the release of the inventory under
18 subsection (a), any updates to the inventory result-
19 ing from subsection (d), or the submission of a re-
20 port under subsection (c)(1), the NTIA and the
21 Commission shall consult with the National Security
22 Council for a period not to exceed 30 days for the
23 purposes of determining what additional informa-
24 tion, if any, shall be withheld from the public.

1 “(f) PROPRIETARY INFORMATION.—In creating and
2 maintaining the inventory, centralized portal or Web site,
3 and reports under this section, the NTIA and the Commis-
4 sion shall follow their rules and practice regarding con-
5 fidential and proprietary information. Nothing in this sub-
6 section shall be construed to compel the Commission to
7 make publicly available any confidential or proprietary in-
8 formation.”.

Passed the House of Representatives April 14, 2010.

Attest:

Clerk.

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