

Calendar No. 347

111TH CONGRESS
2^D SESSION**H. R. 3125**

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2010

Received; read twice and placed on the calendar

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Radio Spectrum Inven-
5 tory Act”.

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

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

1 **“SEC. 119. SPECTRUM INVENTORY.**

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

7 “(1) Except as provided in subsection (e), cre-
8 ate an inventory of each radio spectrum band of fre-
9 quencies listed in the United States Table of Fre-
10 quency Allocations, from 225 megahertz to, at a
11 minimum, 3.7 gigahertz, and to 10 gigahertz unless
12 the NTIA and the Commission determine that the
13 burden of expanding the inventory outweighs the
14 benefit, that includes—

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

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

20 “(C) the activities, capabilities, functions,
21 or missions (including whether such activities,
22 capabilities, functions, or missions are space-
23 based, air-based, or ground-based) supported by
24 the transmitters, end-user terminals or receiv-
25 ers, or other radio frequency devices authorized
26 to operate in each band of frequencies;

1 “(D) the total amount of spectrum, by
2 band of frequencies, assigned or licensed to
3 each Federal or non-Federal user (in percent-
4 age terms and in sum) and the geographic
5 areas covered by their respective assignments or
6 licenses;

7 “(E) the approximate number of transmit-
8 ters, end-user terminals or receivers, or other
9 radio frequency devices authorized to operate,
10 as appropriate to characterize the extent of use
11 of each radio service in each band of fre-
12 quencies;

13 “(F) an approximation of the extent to
14 which each Federal or non-Federal user is
15 using, by geography, each band of frequencies,
16 such as the amount and percentage of time of
17 use, number of end users, or other measures as
18 appropriate to the particular band and radio
19 service; and

20 “(G) to the greatest extent possible—

21 “(i) contour maps or other informa-
22 tion that illustrate the coverage area, re-
23 ceiver performance, and other parameters
24 relevant to an assessment of the avail-
25 ability of spectrum in each band;

1 “(ii) for each band or range of fre-
2 quencies, the identity of each entity offer-
3 ing unlicensed services and the types and
4 approximate number of unlicensed inten-
5 tional radiators verified or certified by the
6 Commission that are authorized to operate;
7 and

8 “(iii) for non-Federal users, any com-
9 mercial names under which facilities-based
10 service is offered to the public using the
11 spectrum of the non-Federal user, includ-
12 ing the commercial names under which the
13 spectrum is being offered through resale.

14 “(2) Except as provided in subsection (e), cre-
15 ate a centralized portal or Web site to make the in-
16 ventory of the bands of frequencies required under
17 paragraph (1) available to the public.

18 “(b) USE OF AGENCY RESOURCES.—In creating the
19 inventory described in subsection (a)(1), the NTIA and
20 the Commission shall first use agency resources, including
21 existing databases, field testing, and recordkeeping sys-
22 tems, and only request information from Federal and non-
23 Federal users if such information cannot be obtained
24 using such agency resources.

25 “(c) REPORTS.—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (e), not later than 2 years after the date of
3 enactment of this section and biennially thereafter,
4 the NTIA and the Commission shall submit a report
5 to the Committee on Commerce, Science, and Trans-
6 portation of the Senate and to the Committee on
7 Energy and Commerce of the House of Representa-
8 tives containing—

9 “(A) the results of the inventory created
10 under subsection (a)(1), including any update
11 to the information in the inventory pursuant to
12 subsection (d);

13 “(B) a description of any information the
14 NTIA or the Commission determines is nec-
15 essary for such inventory but that is unavail-
16 able; and

17 “(C) a description of any information not
18 provided by any Federal or non-Federal user in
19 accordance with subsections (e)(1)(B)(ii) and
20 (e)(2)(C)(ii).

21 “(2) RELOCATION REPORT.—

22 “(A) IN GENERAL.—Except as provided in
23 subsection (e), the NTIA and the Commission
24 shall submit a report to the Committee on Com-
25 merce, Science, and Transportation of the Sen-

1 ate and the Committee on Energy and Com-
2 merce of the House of Representatives con-
3 taining a recommendation of which spectrum, if
4 any, should be reallocated or otherwise made
5 available for shared access and an explanation
6 of the basis for that recommendation.

7 “(B) DEADLINES.—The report required
8 under subparagraph (A) shall be submitted not
9 later than 2 years after the date of enactment
10 of this section and every 2 years thereafter.

11 “(3) INVENTORY REPORT.—If the NTIA and
12 the Commission have not conducted an inventory
13 under subsection (a) to 10 gigahertz at least 90 days
14 before the third report required under paragraph (1)
15 is submitted, the NTIA and the Commission shall
16 include an evaluation in such report and in every re-
17 port thereafter of whether the burden of expanding
18 the inventory to 10 gigahertz outweighs the benefit
19 until such time as the NTIA and the Commission
20 have conducted the inventory to 10 gigahertz.

21 “(d) MAINTENANCE AND UPDATING OF INFORMA-
22 TION.—After the creation of the inventory required by
23 subsection (a)(1), the NTIA and the Commission shall
24 make all reasonable efforts to maintain and update the
25 information required under such subsection on a quarterly

1 basis, including when there is a transfer or auction of a
2 license or a change in a permanent assignment or license.

3 “(e) NATIONAL SECURITY AND PUBLIC SAFETY IN-
4 FORMATION.—

5 “(1) NONDISCLOSURE.—

6 “(A) IN GENERAL.—If the head of an ex-
7 ecutive agency of the Federal Government de-
8 termines that public disclosure of certain infor-
9 mation held by that agency or a licensee of non-
10 Federal spectrum and required by subsection
11 (a), (c), or (d) would reveal classified national
12 security information or other information for
13 which there is a legal basis for nondisclosure
14 and such public disclosure would be detrimental
15 to national security, homeland security, or pub-
16 lic safety, the agency head shall notify the
17 NTIA of that determination and shall include
18 descriptions of the activities, capabilities, func-
19 tions, or missions (including whether they are
20 space-based, air-based, or ground-based) sup-
21 ported by the information being withheld.

22 “(B) INFORMATION PROVIDED.—The
23 agency head shall provide to NTIA—

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

1 “(ii) to the maximum extent prac-
2 ticable, a summary description, suitable for
3 public release, of the classified national se-
4 curity information or other information for
5 which there is a legal basis for nondisclo-
6 sure; and

7 “(iii) a classified annex, under appro-
8 priate cover, containing the classified na-
9 tional security information or other infor-
10 mation for which there is a legal basis for
11 nondisclosure that the agency head has de-
12 termined must be withheld from public dis-
13 closure.

14 “(2) PUBLIC SAFETY NONDISCLOSURE.—

15 “(A) IN GENERAL.—If a licensee of non-
16 Federal spectrum determines that public disclo-
17 sure of certain information held by that licensee
18 and required to be submitted by subsection (a),
19 (c), or (d) would reveal information for which
20 public disclosure would be detrimental to public
21 safety, or the licensee is otherwise prohibited by
22 law from disclosing the information, the licensee
23 may petition the Commission for a partial or
24 total exemption from inclusion on the central-

1 ized portal or Web site under subsection (a)(2)
2 and in the report required by subsection (c).

3 “(B) BURDEN.—The licensee seeking an
4 exemption under this paragraph bears the bur-
5 den of justifying the exemption and shall pro-
6 vide clear and convincing evidence to support
7 such an exemption.

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

11 “(i) the publicly releasable informa-
12 tion required by subsection (a)(1) for the
13 inventory;

14 “(ii) to the maximum extent prac-
15 ticable, a summary description, suitable for
16 public release, of the information for which
17 public disclosure would be detrimental to
18 public safety or the licensee is otherwise
19 prohibited by law from disclosing; and

20 “(iii) an annex, under appropriate
21 cover, containing the information that the
22 Commission has determined should be
23 withheld from public disclosure.

24 “(3) ADDITIONAL DISCLOSURE.—The annexes
25 required under paragraphs (1)(B)(iii) and (2)(C)(iii)

1 shall be provided to the congressional committees
2 listed in subsection (c), but shall not be disclosed to
3 the public under subsection (a) or subsection (d) or
4 provided to any unauthorized person through any
5 other means.

6 “(4) NATIONAL SECURITY COUNCIL CONSULTA-
7 TION.—Prior to the release of the inventory under
8 subsection (a), any updates to the inventory result-
9 ing from subsection (d), or the submission of a re-
10 port under subsection (c)(1), the NTIA and the
11 Commission shall consult with the National Security
12 Council for a period not to exceed 30 days for the
13 purposes of determining what additional informa-
14 tion, if any, shall be withheld from the public.

15 “(f) PROPRIETARY INFORMATION.—In creating and
16 maintaining the inventory, centralized portal or Web site,
17 and reports under this section, the NTIA and the Commis-
18 sion shall follow their rules and practice regarding con-
19 fidential and proprietary information. Nothing in this sub-
20 section shall be construed to compel the Commission to
21 make publicly available any confidential or proprietary in-
22 formation.”.

Passed the House of Representatives April 14, 2010.

Attest: LORRAINE C. MILLER,
Clerk.

Calendar No. 347

11TH CONGRESS
2^D 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.

APRIL 15, 2010

Received; read twice and placed on the calendar