

PUBLIC LAW 112-96—FEB. 22, 2012

**MIDDLE CLASS TAX RELIEF AND JOB
CREATION ACT OF 2012**

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety broadband network;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device “talkaround” capability over broadband networks, public safety prioritization, authentication capabilities, and standard application programming interfaces for the nationwide public safety broadband network, if necessary and practical;

(5) accelerate the development of communications technology and equipment that can facilitate the eventual migration of public safety narrowband communications to the nationwide public safety broadband network; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

Subtitle D—Spectrum Auction Authority

47 USC 1451.

SEC. 6401. DEADLINES FOR AUCTION OF CERTAIN SPECTRUM.

(a) CLEARING CERTAIN FEDERAL SPECTRUM.—

President.

(1) IN GENERAL.—The President shall—

(A) not later than 3 years after the date of the enactment of this Act, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum described in paragraph (2); and

Notification.

(B) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

(2) SPECTRUM DESCRIBED.—The electromagnetic spectrum described in this paragraph is the 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz identified under paragraph (3).

Reports.

(3) IDENTIFICATION BY SECRETARY OF COMMERCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the President a report identifying 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz for reallocation from Federal use to non-Federal use.

(b) REALLOCATION AND AUCTION.—

(1) IN GENERAL.—Notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than 3 years after the date of the enactment of this Act, the Commission shall, except as provided in paragraph (4)—

(A) allocate the spectrum described in paragraph (2) for commercial use; and

(B) through a system of competitive bidding under such section, grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

(2) SPECTRUM DESCRIBED.—The spectrum described in this paragraph is the following:

(A) The frequencies between 1915 megahertz and 1920 megahertz.

(B) The frequencies between 1995 megahertz and 2000 megahertz.

(C) The frequencies described in subsection (a)(2).

(D) The frequencies between 2155 megahertz and 2180 megahertz.

(E) Fifteen megahertz of contiguous spectrum to be identified by the Commission.

(3) PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(4) DETERMINATION BY COMMISSION.—If the Commission determines that the band of frequencies described in paragraph (2)(A) or the band of frequencies described in paragraph (2)(B) cannot be used without causing harmful interference to commercial mobile service licensees in the frequencies between 1930 megahertz and 1995 megahertz, the Commission may not—

(A) allocate such band for commercial use under paragraph (1)(A); or

(B) grant licenses under paragraph (1)(B) for the use of such band.

(c) AUCTION PROCEEDS.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking “(D), and (E),” and inserting “(D), (E), (F), and (G),”;

(2) in subparagraph (C)(i), by striking “subparagraph (E)(ii)” and inserting “subparagraphs (D)(ii), (E)(ii), (F), and (G)”;

(3) in subparagraph (D)—

(A) by striking the heading and inserting “PROCEEDS FROM REALLOCATED FEDERAL SPECTRUM.—”;

(B) by striking “Cash” and inserting the following:
“(i) IN GENERAL.—Except as provided in clause (ii), cash”; and

(C) by adding at the end the following:

“(ii) CERTAIN OTHER PROCEEDS.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in paragraph (2) of section 113(g) of the National Telecommunications and Information Administration Organization Act that are required to be auctioned by section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012, such portion of such proceeds as is necessary to cover the relocation or sharing costs (as defined in paragraph (3) of such section 113(g)) of Federal entities relocated from such eligible frequencies shall be deposited in the Spectrum Relocation Fund. The remainder of such proceeds shall

be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of the Middle Class Tax Relief and Job Creation Act of 2012.”; and

(4) by adding at the end the following:

“(F) CERTAIN PROCEEDS DESIGNATED FOR PUBLIC SAFETY TRUST FUND.—Notwithstanding subparagraph (A) and except as provided in subparagraphs (B) and (D)(ii), the proceeds (including deposits and upfront payments from successful bidders) from the use of a system of competitive bidding under this subsection pursuant to section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of such Act.”.

SEC. 6402. GENERAL AUTHORITY FOR INCENTIVE AUCTIONS.

Section 309(j)(8) of the Communications Act of 1934, as amended by section 6401(c), is further amended by adding at the end the following:

“(G) INCENTIVE AUCTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the Commission may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.

“(ii) LIMITATIONS.—The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of auction proceeds under clause (i) unless—

“(I) the Commission conducts a reverse auction to determine the amount of compensation that licensees would accept in return for voluntarily relinquishing spectrum usage rights; and

“(II) at least two competing licensees participate in the reverse auction.

“(iii) TREATMENT OF REVENUES.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders) from any auction, prior to the end of fiscal year 2022, of spectrum usage rights made available under clause (i) that are not shared with licensees under such clause shall be deposited as follows:

“(I) \$1,750,000,000 of the proceeds from the incentive auction of broadcast television spectrum required by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the TV Broadcaster Relocation Fund established by subsection (d)(1) of such section.

“(II) All other proceeds shall be deposited—

“(aa) prior to the end of fiscal year 2022, in the Public Safety Trust Fund established by section 6413(a)(1) of such Act; and

“(bb) after the end of fiscal year 2022, in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.

“(iv) CONGRESSIONAL NOTIFICATION.—At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).

“(v) DEFINITION.—In this subparagraph, the term ‘appropriate committees of Congress’ means—

“(I) the Committee on Commerce, Science, and Transportation of the Senate;

“(II) the Committee on Appropriations of the Senate;

“(III) the Committee on Energy and Commerce of the House of Representatives; and

“(IV) the Committee on Appropriations of the House of Representatives.”.

SEC. 6403. SPECIAL REQUIREMENTS FOR INCENTIVE AUCTION OF BROADCAST TV SPECTRUM. 47 USC 1452.

(a) REVERSE AUCTION TO IDENTIFY INCENTIVE AMOUNT.—

(1) IN GENERAL.—The Commission shall conduct a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

Determination.

(2) ELIGIBLE RELINQUISHMENTS.—A relinquishment of usage rights for purposes of paragraph (1) shall include the following:

(A) Relinquishing all usage rights with respect to a particular television channel without receiving in return any usage rights with respect to another television channel.

(B) Relinquishing all usage rights with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel.

(C) Relinquishing usage rights in order to share a television channel with another licensee.

(3) CONFIDENTIALITY.—The Commission shall take all reasonable steps necessary to protect the confidentiality of Commission-held data of a licensee participating in the reverse auction under paragraph (1), including withholding the identity of such licensee until the reassignments and reallocations (if any) under subsection (b)(1)(B) become effective, as described in subsection (f)(2).

(4) PROTECTION OF CARRIAGE RIGHTS OF LICENSEES SHARING A CHANNEL.—A broadcast television station that voluntarily relinquishes spectrum usage rights under this subsection in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

(b) REORGANIZATION OF BROADCAST TV SPECTRUM.—

(1) IN GENERAL.—For purposes of making available spectrum to carry out the forward auction under subsection (c)(1), the Commission—

(A) shall evaluate the broadcast television spectrum (including spectrum made available through the reverse auction under subsection (a)(1)); and

(B) may, subject to international coordination along the border with Mexico and Canada—

(i) make such reassignments of television channels as the Commission considers appropriate; and

(ii) reallocate such portions of such spectrum as the Commission determines are available for reallocation.

(2) FACTORS FOR CONSIDERATION.—In making any reassignments or reallocations under paragraph (1)(B), the Commission shall make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.

(3) NO INVOLUNTARY RELOCATION FROM UHF TO VHF.—In making any reassignments under paragraph (1)(B)(i), the Commission may not involuntarily reassign a broadcast television licensee—

(A) from an ultra high frequency television channel to a very high frequency television channel; or

(B) from a television channel between the frequencies from 174 megahertz to 216 megahertz to a television channel between the frequencies from 54 megahertz to 88 megahertz.

(4) PAYMENT OF RELOCATION COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from amounts made available under subsection (d)(2), the Commission shall reimburse costs reasonably incurred by—

(i) a broadcast television licensee that was reassigned under paragraph (1)(B)(i) from one ultra high frequency television channel to a different ultra high frequency television channel, from one very high frequency television channel to a different very high frequency television channel, or, in accordance with subsection (g)(1)(B), from a very high frequency television channel to an ultra high frequency television channel, in order for the licensee to relocate its television service from one channel to the other;

(ii) a multichannel video programming distributor in order to continue to carry the signal of a broadcast television licensee that—

(I) is described in clause (i);

(II) voluntarily relinquishes spectrum usage rights under subsection (a) with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel; or

(III) voluntarily relinquishes spectrum usage rights under subsection (a) to share a television channel with another licensee; or

(iii) a channel 37 incumbent user, in order to relocate to other suitable spectrum, provided that all such users can be relocated and that the total relocation costs of such users do not exceed \$300,000,000. For the purpose of this section, the spectrum made available through relocation of channel 37 incumbent users shall be deemed as spectrum reclaimed through a reverse auction under section 6403(a).

(B) REGULATORY RELIEF.—In lieu of reimbursement for relocation costs under subparagraph (A), a broadcast television licensee may accept, and the Commission may grant as it considers appropriate, a waiver of the service rules of the Commission to permit the licensee, subject to interference protections, to make flexible use of the spectrum assigned to the licensee to provide services other than broadcast television services. Such waiver shall only remain in effect while the licensee provides at least 1 broadcast television program stream on such spectrum at no charge to the public. Waiver.

(C) LIMITATION.—The Commission may not make reimbursements under subparagraph (A) for lost revenues.

(D) DEADLINE.—The Commission shall make all reimbursements required by subparagraph (A) not later than the date that is 3 years after the completion of the forward auction under subsection (c)(1).

(5) LOW-POWER TELEVISION USAGE RIGHTS.—Nothing in this subsection shall be construed to alter the spectrum usage rights of low-power television stations.

(c) FORWARD AUCTION.—

(1) AUCTION REQUIRED.—The Commission shall conduct a forward auction in which—

(A) the Commission assigns licenses for the use of the spectrum that the Commission reallocates under subsection (b)(1)(B)(ii); and

(B) the amount of the proceeds that the Commission shares under clause (i) of section 309(j)(8)(G) of the Communications Act of 1934 with each licensee whose bid the Commission accepts in the reverse auction under subsection (a)(1) is not less than the amount of such bid.

(2) MINIMUM PROCEEDS.—

(A) IN GENERAL.—If the amount of the proceeds from the forward auction under paragraph (1) is not greater than the sum described in subparagraph (B), no licenses shall be assigned through such forward auction, no reassignments or reallocations under subsection (b)(1)(B)

shall become effective, and the Commission may not revoke any spectrum usage rights by reason of a bid that the Commission accepts in the reverse auction under subsection (a)(1).

(B) **SUM DESCRIBED.**—The sum described in this subparagraph is the sum of—

(i) the total amount of compensation that the Commission must pay successful bidders in the reverse auction under subsection (a)(1);

(ii) the costs of conducting such forward auction that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)); and

(iii) the estimated costs for which the Commission is required to make reimbursements under subsection (b)(4)(A).

(C) **ADMINISTRATIVE COSTS.**—The amount of the proceeds from the forward auction under paragraph (1) that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) shall be sufficient to cover the costs incurred by the Commission in conducting the reverse auction under subsection (a)(1), conducting the evaluation of the broadcast television spectrum under subparagraph (A) of subsection (b)(1), and making any reassignments or reallocations under subparagraph (B) of such subsection, in addition to the costs incurred by the Commission in conducting such forward auction.

(3) **FACTOR FOR CONSIDERATION.**—In conducting the forward auction under paragraph (1), the Commission shall consider assigning licenses that cover geographic areas of a variety of different sizes.

(d) **TV BROADCASTER RELOCATION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the TV Broadcaster Relocation Fund.

(2) **PAYMENT OF RELOCATION COSTS.**—Any amounts borrowed under paragraph (3)(A) and any amounts in the TV Broadcaster Relocation Fund that are not necessary for reimbursement of the general fund of the Treasury for such borrowed amounts shall be available to the Commission to make the payments required by subsection (b)(4)(A).

(3) **BORROWING AUTHORITY.**—

(A) **IN GENERAL.**—Beginning on the date when any reassignments or reallocations under subsection (b)(1)(B) become effective, as provided in subsection (f)(2), and ending when \$1,000,000,000 has been deposited in the TV Broadcaster Relocation Fund, the Commission may borrow from the Treasury of the United States an amount not to exceed \$1,000,000,000 to use toward the payments required by subsection (b)(4)(A).

(B) **REIMBURSEMENT.**—The Commission shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under subparagraph (A) as funds are deposited into the TV Broadcaster Relocation Fund.

Effective date.
Termination
date.

(4) TRANSFER OF UNUSED FUNDS.—If any amounts remain in the TV Broadcaster Relocation Fund after the date that is 3 years after the completion of the forward auction under subsection (c)(1), the Secretary of the Treasury shall—

(A) prior to the end of fiscal year 2022, transfer such amounts to the Public Safety Trust Fund established by section 6413(a)(1); and

(B) after the end of fiscal year 2022, transfer such amounts to the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(e) NUMERICAL LIMITATION ON AUCTIONS AND REORGANIZATION.—The Commission may not complete more than one reverse auction under subsection (a)(1) or more than one reorganization of the broadcast television spectrum under subsection (b).

(f) TIMING.—

(1) CONTEMPORANEOUS AUCTIONS AND REORGANIZATION PERMITTED.—The Commission may conduct the reverse auction under subsection (a)(1), any reassignments or reallocations under subsection (b)(1)(B), and the forward auction under subsection (c)(1) on a contemporaneous basis.

(2) EFFECTIVENESS OF REASSIGNMENTS AND REALLOCATIONS.—Notwithstanding paragraph (1), no reassignments or reallocations under subsection (b)(1)(B) shall become effective until the completion of the reverse auction under subsection (a)(1) and the forward auction under subsection (c)(1), and, to the extent practicable, all such reassignments and reallocations shall become effective simultaneously.

(3) DEADLINE.—The Commission may not conduct the reverse auction under subsection (a)(1) or the forward auction under subsection (c)(1) after the end of fiscal year 2022.

(4) LIMIT ON DISCRETION REGARDING AUCTION TIMING.—Section 309(j)(15)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(A)) shall not apply in the case of an auction conducted under this section.

(g) LIMITATION ON REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—During the period described in paragraph (2), the Commission may not—

(A) involuntarily modify the spectrum usage rights of a broadcast television licensee or reassign such a licensee to another television channel except—

(i) in accordance with this section; or

(ii) in the case of a violation by such licensee of the terms of its license or a specific provision of a statute administered by the Commission, or a regulation of the Commission promulgated under any such provision; or

(B) reassign a broadcast television licensee from a very high frequency television channel to an ultra high frequency television channel, unless—

(i) such a reassignment will not decrease the total amount of ultra high frequency spectrum made available for reallocation under this section; or

(ii) a request from such licensee for the reassignment was pending at the Commission on May 31, 2011.

(2) PERIOD DESCRIBED.—The period described in this paragraph is the period beginning on the date of the enactment of this Act and ending on the earliest of—

(A) the first date when the reverse auction under subsection (a)(1), the reassignments and reallocations (if any) under subsection (b)(1)(B), and the forward auction under subsection (c)(1) have been completed;

(B) the date of a determination by the Commission that the amount of the proceeds from the forward auction under subsection (c)(1) is not greater than the sum described in subsection (c)(2)(B); or

(C) September 30, 2022.

(h) PROTEST RIGHT INAPPLICABLE.—The right of a licensee to protest a proposed order of modification of its license under section 316 of the Communications Act of 1934 (47 U.S.C. 316) shall not apply in the case of a modification made under this section.

(i) COMMISSION AUTHORITY.—Nothing in subsection (b) shall be construed to—

(1) expand or contract the authority of the Commission, except as otherwise expressly provided; or

(2) prevent the implementation of the Commission’s “White Spaces” Second Report and Order and Memorandum Opinion and Order (FCC 08–260, adopted November 4, 2008) in the spectrum that remains allocated for broadcast television use after the reorganization required by such subsection.

SEC. 6404. CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

“(17) CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Commission may not prevent a person from participating in a system of competitive bidding under this subsection if such person—

“(i) complies with all the auction procedures and other requirements to protect the auction process established by the Commission; and

“(ii) either—

“(I) meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(l)(1), 308(b), or 310 to hold a license; or

“(II) would meet such license qualifications by means approved by the Commission prior to the grant of the license.

“(B) CLARIFICATION OF AUTHORITY.—Nothing in subparagraph (A) affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.”.

SEC. 6405. EXTENSION OF AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking “2012” and inserting “2022”.

SEC. 6406. UNLICENSED USE IN THE 5 GHZ BAND.

47 USC 1453.

(a) MODIFICATION OF COMMISSION REGULATIONS TO ALLOW CERTAIN UNLICENSED USE.—

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 1 year after the date of the enactment of this Act, the Commission shall begin a proceeding to modify part 15 of title 47, Code of Federal Regulations, to allow unlicensed U–NII devices to operate in the 5350–5470 MHz band.

Deadline.

(2) **REQUIRED DETERMINATIONS.**—The Commission may make the modification described in paragraph (1) only if the Commission, in consultation with the Assistant Secretary, determines that—

(A) licensed users will be protected by technical solutions, including use of existing, modified, or new spectrum-sharing technologies and solutions, such as dynamic frequency selection; and

(B) the primary mission of Federal spectrum users in the 5350–5470 MHz band will not be compromised by the introduction of unlicensed devices.

(b) STUDY BY NTIA.—

(1) **IN GENERAL.**—The Assistant Secretary, in consultation with the Department of Defense and other impacted agencies, shall conduct a study evaluating known and proposed spectrum-sharing technologies and the risk to Federal users if unlicensed U–NII devices were allowed to operate in the 5350–5470 MHz band and in the 5850–5925 MHz band.

(2) **SUBMISSION.**—The Assistant Secretary shall submit to the Commission and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

Reports.
Deadlines.

(A) not later than 8 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5350–5470 MHz band; and

(B) not later than 18 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5850–5925 MHz band.

(c) DEFINITIONS.—In this section:

(1) **5350–5470 MHZ BAND.**—The term “5350–5470 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5350 megahertz to 5470 megahertz.

(2) **5850–5925 MHZ BAND.**—The term “5850–5925 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5850 megahertz to 5925 megahertz.

SEC. 6407. GUARD BANDS AND UNLICENSED USE.

47 USC 1454.

(a) **IN GENERAL.**—Nothing in subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402, or in section 6403 shall be construed to prevent the Commission from using relinquished or other spectrum to implement band plans with guard bands.

(b) **SIZE OF GUARD BANDS.**—Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands.

- Determination.
- (c) UNLICENSED USE IN GUARD BANDS.—The Commission may permit the use of such guard bands for unlicensed use.
- (d) DATABASE.—Unlicensed use shall rely on a database or subsequent methodology as determined by the Commission.
- (e) PROTECTIONS AGAINST HARMFUL INTERFERENCE.—The Commission may not permit any use of a guard band that the Commission determines would cause harmful interference to licensed services.

SEC. 6408. STUDY ON RECEIVER PERFORMANCE AND SPECTRUM EFFICIENCY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to consider efforts to ensure that each transmission system is designed and operated so that reasonable use of adjacent spectrum does not excessively impair the functioning of such system.

(b) REQUIRED CONSIDERATIONS.—In conducting the study required by subsection (a), the Comptroller General shall consider—

(1) the value of—

(A) improving receiver performance as it relates to increasing spectral efficiency;

(B) improving the operation of services that are located in adjacent spectrum; and

(C) narrowing the guard bands between adjacent spectrum use;

(2) the role of manufacturers, commercial licensees, and government users with respect to their transmission systems and the use of adjacent spectrum;

(3) the feasibility of industry self-compliance with respect to the design and operational requirements of transmission systems and the reasonable use of adjacent spectrum; and

(4) the value of action by the Commission and the Assistant Secretary to establish, by rule, technical requirements or standards for non-Federal and Federal use, respectively, with respect to the reasonable use of portions of the radio spectrum that are adjacent to each other.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) TRANSMISSION SYSTEM DEFINED.—In this section, the term “transmission system” means any telecommunications, broadcast, satellite, commercial mobile service, or other communications system that employs radio spectrum.

47 USC 1455.

SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

Definition.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any

request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY.—

(1) GRANT.—If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) APPLICATION.—The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) FEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) EXCEPTIONS.—The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)—

- (i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and
- (ii) in the interest of expanding wireless and broadband coverage.

(4) USE OF FEES COLLECTED.—Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall—

Deadline.

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on

rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) **APPLICABILITY.**—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) **APPLICATION.**—The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 102 of title 40, United States Code.

SEC. 6410. FUNCTIONAL RESPONSIBILITY OF NTIA TO ENSURE EFFICIENT USE OF SPECTRUM.

Section 103(b)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(2)) is amended by adding at the end the following:

“(U) The responsibility to promote the best possible and most efficient use of electromagnetic spectrum resources across the Federal Government, subject to and consistent with the needs and missions of Federal agencies.”.

47 USC 1456.

Deadline.

SEC. 6411. SYSTEM CERTIFICATION.

Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall update and revise section 33.4 of OMB Circular A–11 to reflect the recommendations regarding such Circular made in the Commerce Spectrum Management Advisory Committee Incentive Subcommittee report, adopted January 11, 2011.

SEC. 6412. DEPLOYMENT OF 11 GHZ, 18 GHZ, AND 23 GHZ MICROWAVE BANDS.

(a) **FCC REPORT ON REJECTION RATE.**—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the rejection rate for the spectrum described in subsection (c).

(b) **GAO STUDY ON DEPLOYMENT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to assess whether the spectrum described in subsection (c) is being deployed in such a manner that, in areas with high demand for common carrier licenses for the use of such spectrum, market forces—

(A) provide adequate incentive for the efficient use of such spectrum; and

(B) ensure that the Federal Government receives maximum revenue for such spectrum through competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(2) FACTORS FOR CONSIDERATION.—In conducting the study required by paragraph (1), the Comptroller General shall take into consideration—

(A) spectrum that is adjacent to the spectrum described in subsection (c) and that was assigned through competitive bidding under section 309(j) of the Communications Act of 1934; and

(B) the rejection rate for the spectrum described in subsection (c), current as of the time of the assessment and as projected for the future, in markets in which there is a high demand for common carrier licenses for the use of such spectrum.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study required by paragraph (1) to—

(A) the Commission; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) SPECTRUM DESCRIBED.—The spectrum described in this subsection is the portions of the electromagnetic spectrum between the frequencies from 10,700 megahertz to 11,700 megahertz, from 17,700 megahertz to 19,700 megahertz, and from 21,200 megahertz to 23,600 megahertz.

(d) REJECTION RATE DEFINED.—In this section, the term “rejection rate” means the number and percent of applications (whether made to the Commission or to a third-party coordinator) for common carrier use of spectrum that were not granted because of lack of availability of such spectrum or interference concerns of existing licensees.

(e) NO ADDITIONAL FUNDS AUTHORIZED.—Funds necessary to carry out this section shall be derived from funds otherwise authorized to be appropriated.

SEC. 6413. PUBLIC SAFETY TRUST FUND.

47 USC 1457.

(a) ESTABLISHMENT OF PUBLIC SAFETY TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the Public Safety Trust Fund.

(2) AVAILABILITY.—Amounts deposited in the Public Safety Trust Fund shall remain available through fiscal year 2022. Any amounts remaining in the Fund after the end of such fiscal year shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) USE OF FUND.—As amounts are deposited in the Public Safety Trust Fund, such amounts shall be used to make the following deposits or payments in the following order of priority:

(1) REPAYMENT OF AMOUNT BORROWED FOR FIRST RESPONDER NETWORK AUTHORITY.—An amount not to exceed \$2,000,000,000 shall be available to the NTIA to reimburse the general fund of the Treasury for any amounts borrowed under section 6207.

(2) STATE AND LOCAL IMPLEMENTATION FUND.—\$135,000,000 shall be deposited in the State and Local Implementation Fund established by section 6301.

(3) BUILDOUT BY FIRST RESPONDER NETWORK AUTHORITY.—\$7,000,000,000, reduced by the amount borrowed under section 6207, shall be deposited in the Network Construction Fund established by section 6206.

(4) PUBLIC SAFETY RESEARCH.—\$100,000,000 shall be available to the Director of NIST to carry out section 6303.

(5) DEFICIT REDUCTION.—\$20,400,000,000 shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.

(6) 9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION GRANTS.—\$115,000,000 shall be available to the Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration to carry out the grant program under section 158 of the National Telecommunications and Information Administration Organization Act, as amended by section 6503 of this title.

(7) ADDITIONAL PUBLIC SAFETY RESEARCH.—\$200,000,000 shall be available to the Director of NIST to carry out section 6303.

(8) ADDITIONAL DEFICIT REDUCTION.—Any remaining amounts deposited in the Public Safety Trust Fund shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(c) INVESTMENT.—Amounts in the Public Safety Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be credited to, and become a part of, the Fund.

SEC. 6414. STUDY ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO AMATEUR RADIO COMMUNICATIONS.

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commission, in consultation with the Office of Emergency Communications in the Department of Homeland Security, shall—

(1) complete a study on the uses and capabilities of amateur radio service communications in emergencies and disaster relief; and

Reports.

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of such study.

(b) CONTENTS.—The study required by subsection (a) shall include—

(1)(A) a review of the importance of emergency amateur radio service communications relating to disasters, severe weather, and other threats to lives and property in the United States; and

(B) recommendations for—

(i) enhancements in the voluntary deployment of amateur radio operators in disaster and emergency communications and disaster relief efforts; and

- (ii) improved integration of amateur radio operators in the planning and furtherance of initiatives of the Federal Government; and
- (2)(A) an identification of impediments to enhanced amateur radio service communications, such as the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations; and
- (B) recommendations regarding the removal of such impediments.
- (c) EXPERTISE.—In conducting the study required by subsection (a), the Commission shall use the expertise of stakeholder entities and organizations, including the amateur radio, emergency response, and disaster communications communities.

Subtitle E—Next Generation 9-1-1 Advancement Act of 2012

Next Generation
9-1-1
Advancement Act
of 2012.

SEC. 6501. SHORT TITLE.

This subtitle may be cited as the “Next Generation 9-1-1 Advancement Act of 2012”.

47 USC 1401
note.

SEC. 6502. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) 9-1-1 SERVICES AND E9-1-1 SERVICES.—The terms “9-1-1 services” and “E9-1-1 services” shall have the meaning given those terms in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

(2) MULTI-LINE TELEPHONE SYSTEM.—The term “multi-line telephone system” or “MLTS” means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises based systems, such as Centrex and VoIP, as well as PBX, Hybrid, and Key Telephone Systems (as classified by the Commission under part 68 of title 47, Code of Federal Regulations), and includes systems owned or leased by governmental agencies and non-profit entities, as well as for profit businesses.

(3) OFFICE.—The term “Office” means the 9-1-1 Implementation Coordination Office established under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

47 USC 1471.

SEC. 6503. COORDINATION OF 9-1-1 IMPLEMENTATION.

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended to read as follows:

“SEC. 158. COORDINATION OF 9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION.

“(a) 9-1-1 IMPLEMENTATION COORDINATION OFFICE.—

“(1) ESTABLISHMENT AND CONTINUATION.—The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall—

“(A) establish and further a program to facilitate coordination and communication between Federal, State,