

103D CONGRESS  
1ST SESSION

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**H. R. 707**

**AN ACT**

To establish procedures to improve the allocation and assignment of the electromagnetic spectrum, and for other purposes.



1    **“PART B—EMERGING TELECOMMUNICATIONS**  
2                                   **TECHNOLOGIES**

3    **“SEC. 111. FINDINGS.**

4            “The Congress finds that—

5                    “(1) the Federal Government currently reserves  
6                    for its own use, or has priority of access to, approxi-  
7                    mately 40 percent of the electromagnetic spectrum  
8                    that is assigned for use pursuant to the Communica-  
9                    tions Act of 1934;

10                   “(2) many of such frequencies are underutilized  
11                   by Federal Government licensees;

12                   “(3) the public interest requires that many of  
13                   such frequencies be utilized more efficiently by Fed-  
14                   eral Government and non-Federal licensees;

15                   “(4) additional frequencies are assigned for  
16                   services that could be obtained more efficiently from  
17                   commercial carriers or other vendors;

18                   “(5) scarcity of assignable frequencies for li-  
19                   censing by the Commission can and will—

20                           “(A) impede the development and commer-  
21                           cialization of new telecommunications products  
22                           and services;

23                           “(B) limit the capacity and efficiency of  
24                           the United States telecommunications systems;

1           “(C) prevent some State and local police,  
2           fire, and emergency services from obtaining ur-  
3           gently needed radio channels; and

4           “(D) adversely affect the productive capac-  
5           ity and international competitiveness of the  
6           United States economy;

7           “(6) a reassignment of these frequencies can  
8           produce significant economic returns; and

9           “(7) the Secretary of Commerce, the President,  
10          and the Federal Communications Commission should  
11          be directed to take appropriate steps to correct these  
12          deficiencies.

13   **“SEC. 112. NATIONAL SPECTRUM PLANNING.**

14          “(a) PLANNING ACTIVITIES.—The Assistant Sec-  
15          retary and the Chairman of the Commission shall meet,  
16          at least biannually, to conduct joint spectrum planning  
17          with respect to the following issues—

18               “(1) the future spectrum requirements for pub-  
19               lic and private uses, including State and local gov-  
20               ernment public safety agencies;

21               “(2) the spectrum allocation actions necessary  
22               to accommodate those uses; and

23               “(3) actions necessary to promote the efficient  
24               use of the spectrum, including spectrum manage-  
25               ment techniques to promote increased shared use of

1 the spectrum that does not cause harmful inter-  
2 ference as a means of increasing commercial access.

3 “(b) REPORTS.—The Assistant Secretary and the  
4 Chairman of the Commission shall submit a joint annual  
5 report to the Committee on Energy and Commerce of the  
6 House of Representatives, the Committee on Commerce,  
7 Science, and Transportation of the Senate, the Secretary,  
8 and the Commission on the joint spectrum planning activi-  
9 ties conducted under subsection (a) and recommendations  
10 for action developed pursuant to such activities.

11 “(c) REPORTING REQUIREMENTS.—The first annual  
12 report submitted after the date of the report by the advi-  
13 sory committee under section 113(d)(4) shall—

14 “(1) include an analysis of and response to that  
15 committee report; and

16 “(2) include an analysis of the effect on spec-  
17 trum efficiency and the cost of equipment to Federal  
18 spectrum users of maintaining separate allocations  
19 for Federal Government and non-Federal Govern-  
20 ment licensees for the same or similar services.

21 **“SEC. 113. IDENTIFICATION OF REALLOCABLE FRE-**  
22 **QUENCIES.**

23 “(a) IDENTIFICATION REQUIRED.—The Secretary  
24 shall, within 24 months after the date of the enactment

1 of this part, prepare and submit to the President and the  
2 Congress a report identifying bands of frequencies that—

3 “(1) are allocated on a primary basis for Fed-  
4 eral Government use and eligible for licensing pursu-  
5 ant to section 305(a) of the Act (47 U.S.C. 305(a));

6 “(2) are not required for the present or identifi-  
7 able future needs of the Federal Government;

8 “(3) can feasibly be made available, as of the  
9 date of submission of the report or at any time dur-  
10 ing the next 15 years, for use under the Act (other  
11 than for Federal Government stations under such  
12 section 305);

13 “(4) will not result in costs to the Federal Gov-  
14 ernment, or losses of services or benefits to the pub-  
15 lic, that are excessive in relation to the benefits that  
16 may be obtained by non-Federal licensees; and

17 “(5) are most likely to have the greatest poten-  
18 tial for productive uses and public benefits under the  
19 Act.

20 “(b) MINIMUM AMOUNT OF SPECTRUM REC-  
21 OMMENDED.—

22 “(1) IN GENERAL.—Based on the report re-  
23 quired by subsection (a), the Secretary shall rec-  
24 ommend for reallocation, for use other than by Fed-  
25 eral Government stations under section 305 of the

1 Act (47 U.S.C. 305), bands of frequencies that span  
2 a total of not less than 200 megahertz, that are lo-  
3 cated below 6 gigahertz, and that meet the criteria  
4 specified in paragraphs (1) through (4) of subsection  
5 (a). The Secretary may not include, in such 200  
6 megahertz, bands of frequencies that span more  
7 than 20 megahertz and that are located between 5  
8 and 6 gigahertz. If the report identifies (as meeting  
9 such criteria) bands of frequencies spanning more  
10 than 200 megahertz, the report shall identify and  
11 recommend for reallocation those bands (spanning  
12 not less than 200 megahertz) that meet the criteria  
13 specified in paragraph (5) of such subsection.

14 “(2) MIXED USES PERMITTED TO BE COUNT-  
15 ED.—Bands of frequencies which the Secretary’s re-  
16 port recommends be partially retained for use by  
17 Federal Government stations, but which are also  
18 recommended to be reallocated to be made available  
19 under the Act for use by non-Federal stations, may  
20 be counted toward the minimum spectrum required  
21 by paragraph (1) of this subsection, except that—

22 “(A) the bands of frequencies counted  
23 under this paragraph may not count toward  
24 more than one-half of the minimum required by  
25 paragraph (1) of this subsection;

1           “(B) a band of frequencies may not be  
2 counted under this paragraph unless the assign-  
3 ments of the band to Federal Government sta-  
4 tions under section 305 of the Act (47 U.S.C.  
5 305) are limited by geographic area, by time, or  
6 by other means so as to guarantee that the po-  
7 tential use to be made by such Federal Govern-  
8 ment stations is substantially less (as measured  
9 by geographic area, time, or otherwise) than the  
10 potential use to be made by non-Federal sta-  
11 tions; and

12           “(C) the operational sharing permitted  
13 under this paragraph shall be subject to coordi-  
14 nation procedures which the Commission shall  
15 establish and implement to ensure against  
16 harmful interference.

17           “(c) CRITERIA FOR IDENTIFICATION.—

18           “(1) NEEDS OF THE FEDERAL GOVERNMENT.—  
19 In determining whether a band of frequencies meets  
20 the criteria specified in subsection (a)(2), the Sec-  
21 retary shall—

22           “(A) consider whether the band of fre-  
23 quencies is used to provide a communications  
24 service that is or could be available from a com-  
25 mercial carrier or other vendor;

1 “(B) seek to promote—

2 “(i) the maximum practicable reliance  
3 on commercially available substitutes;

4 “(ii) the sharing of frequencies (as  
5 permitted under subsection (b)(2));

6 “(iii) the development and use of new  
7 communications technologies; and

8 “(iv) the use of nonradiating commu-  
9 nications systems where practicable; and

10 “(C) seek to avoid—

11 “(i) serious degradation of Federal  
12 Government services and operations; and

13 “(ii) excessive costs to the Federal  
14 Government and users of Federal Govern-  
15 ment services.

16 “(2) FEASIBILITY OF USE.—In determining  
17 whether a frequency band meets the criteria speci-  
18 fied in subsection (a)(3), the Secretary shall—

19 “(A) assume such frequencies will be as-  
20 signed by the Commission under section 303 of  
21 the Act (47 U.S.C. 303) over the course of not  
22 less than 15 years;

23 “(B) assume reasonable rates of scientific  
24 progress and growth of demand for tele-  
25 communications services;

1           “(C) determine the extent to which the  
2           reallocation or reassignment will relieve actual  
3           or potential scarcity of frequencies available for  
4           licensing by the Commission for non-Federal  
5           use;

6           “(D) seek to include frequencies which can  
7           be used to stimulate the development of new  
8           technologies; and

9           “(E) consider the immediate and recurring  
10          costs to reestablish services displaced by the  
11          reallocation of spectrum.

12          “(3) ANALYSIS OF BENEFITS.—In determining  
13          whether a band of frequencies meets the criteria  
14          specified in subsection (a)(4), the Secretary shall  
15          consider—

16                 “(A) the extent to which equipment is or  
17                 will be available that is capable of utilizing the  
18                 band;

19                 “(B) the proximity of frequencies that are  
20                 already assigned for commercial or other non-  
21                 Federal use; and

22                 “(C) the activities of foreign governments  
23                 in making frequencies available for experimen-  
24                 tation or commercial assignments in order to

1 support their domestic manufacturers of equip-  
2 ment.

3 “(4) POWER AGENCY FREQUENCIES.—

4 “(A) ELIGIBLE FOR MIXED USE ONLY.—

5 The frequencies assigned to any Federal power  
6 agency may only be eligible for mixed use under  
7 subsection (b)(2) in geographically separate  
8 areas and shall not be recommended for the  
9 purposes of withdrawing that assignment. In  
10 any case where a frequency is to be shared by  
11 an affected Federal power agency and a non-  
12 Federal user, such use by the non-Federal user  
13 shall, consistent with the procedures established  
14 under subsection (b)(2)(C), not cause harmful  
15 interference to the affected Federal power agen-  
16 cy or adversely affect the reliability of its power  
17 system.

18 “(B) DEFINITION.—As used in this para-  
19 graph, the term ‘Federal power agency’ means  
20 the Tennessee Valley Authority, the Bonneville  
21 Power Administration, the Western Area Power  
22 Administration, or the Southwestern Power  
23 Administration.

24 “(d) PROCEDURE FOR IDENTIFICATION OF  
25 REALLOCABLE BANDS OF FREQUENCIES.—

1           “(1) SUBMISSION OF PRELIMINARY IDENTIFICA-  
2           TION TO CONGRESS.—Within 12 months after the  
3           date of the enactment of this part, the Secretary  
4           shall prepare and submit to the Congress a report  
5           which makes a preliminary identification of  
6           reallocable bands of frequencies which meet the cri-  
7           teria established by this section.

8           “(2) CONVENING OF ADVISORY COMMITTEE.—  
9           Not later than the date the Secretary submits the  
10          report required by paragraph (1), the Secretary shall  
11          convene an advisory committee to—

12                   “(A) review the bands of frequencies iden-  
13                   tified in such report;

14                   “(B) advise the Secretary with respect to  
15                   (i) the bands of frequencies which should be in-  
16                   cluded in the final report required by subsection  
17                   (a), and (ii) the effective dates which should be  
18                   established under subsection (e) with respect to  
19                   such frequencies;

20                   “(C) receive public comment on the Sec-  
21                   retary’s report and on the final report; and

22                   “(D) prepare and submit the report re-  
23                   quired by paragraph (4).

1 The advisory committee shall meet at least monthly  
2 until each of the actions required by section 114(a)  
3 have taken place.

4 “(3) COMPOSITION OF COMMITTEE; CHAIR-  
5 MAN.—The advisory committee shall include—

6 “(A) the Chairman of the Commission and  
7 the Assistant Secretary, and one other rep-  
8 resentative of the Federal Government as des-  
9 ignated by the Secretary; and

10 “(B) representatives of—

11 “(i) United States manufacturers of  
12 spectrum-dependent telecommunications  
13 equipment;

14 “(ii) commercial carriers;

15 “(iii) other users of the electro-  
16 magnetic spectrum, including radio and  
17 television broadcast licensees, State and  
18 local public safety agencies, and the avia-  
19 tion industry; and

20 “(iv) other interested members of the  
21 public who are knowledgeable about the  
22 uses of the electromagnetic spectrum.

23 A majority of the members of the committee shall be  
24 members described in subparagraph (B), and one of

1 such members shall be designated as chairman by  
2 the Secretary.

3 “(4) RECOMMENDATIONS ON SPECTRUM ALLO-  
4 CATION PROCEDURES.—The advisory committee  
5 shall, not later than 36 months after the date of the  
6 enactment of this part, submit to the Secretary, the  
7 Commission, the Committee on Energy and Com-  
8 merce of the House of Representatives, and the  
9 Committee on Commerce, Science, and Transpor-  
10 tation of the Senate, a report containing such rec-  
11 ommendations as the advisory committee considers  
12 appropriate for the reform of the process of allocat-  
13 ing the electromagnetic spectrum between Federal  
14 and non-Federal use, and any dissenting views  
15 thereon.

16 “(e) TIMETABLE FOR REALLOCATION AND LIMITA-  
17 TION.—

18 “(1) TIMETABLE REQUIRED.—The Secretary  
19 shall, as part of the report required by subsection  
20 (a), include a timetable that recommends immediate  
21 and delayed effective dates by which the President  
22 shall withdraw or limit assignments on the fre-  
23 quencies specified in the report.

24 “(2) EXPEDITED REALLOCATION OF INITIAL 30  
25 MHZ PERMITTED.—The Secretary may prepare and

1 submit to the President a report which specifically  
2 identifies an initial 30 megahertz of spectrum that  
3 meets the criteria described in subsection (a) and  
4 that can be made available for reallocation imme-  
5 diately upon issuance of the report required by this  
6 section.

7 “(3) DELAYED EFFECTIVE DATE.—The rec-  
8 ommended delayed effective dates shall—

9 “(A) permit the earliest possible  
10 reallocation of the frequency bands, taking into  
11 account the requirements of section 115(1);

12 “(B) be based on the useful remaining life  
13 of equipment that has been purchased or con-  
14 tracted for to operate on identified frequencies;

15 “(C) be based on the need to coordinate  
16 frequency use with other nations; and

17 “(D) take into account the relationship be-  
18 tween the costs to the Federal Government of  
19 changing to different frequencies and the bene-  
20 fits that may be obtained from commercial and  
21 other non-Federal uses of the reassigned fre-  
22 quencies.

23 **“SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL**  
24 **GOVERNMENT STATIONS.**

25 “(a) IN GENERAL.—The President shall—

1           “(1) within 6 months after receipt of the Sec-  
2           retary’s report under section 113(a), withdraw the  
3           assignment to a Federal Government station of any  
4           frequency which the report recommends for imme-  
5           diate reallocation;

6           “(2) within such 6-month period, limit the as-  
7           signment to a Federal Government station of any  
8           frequency which the report recommends be made im-  
9           mediately available for mixed use under section  
10          113(b)(2);

11          “(3) by the delayed effective date recommended  
12          by the Secretary under section 113(e) (except as  
13          provided in subsection (b)(4) of this section), with-  
14          draw or limit the assignment to a Federal Govern-  
15          ment station of any frequency which the report rec-  
16          ommends be reallocated or made available for mixed  
17          use on such delayed effective date;

18          “(4) assign or reassign other frequencies to  
19          Federal Government stations as necessary to adjust  
20          to such withdrawal or limitation of assignments; and

21          “(5) transmit a notice and description to the  
22          Commission and each House of Congress of the  
23          actions taken under this subsection.

24          “(b) EXCEPTIONS.—

1           “(1) AUTHORITY TO SUBSTITUTE.—If the  
2 President determines that a circumstance described  
3 in paragraph (2) exists, the President—

4           “(A) may substitute an alternative fre-  
5 quency or band of frequencies for the frequency  
6 or band that is subject to such determination  
7 and withdraw (or limit) the assignment of that  
8 alternative frequency or band in the manner re-  
9 quired by subsection (a); and

10           “(B) shall submit a statement of the rea-  
11 sons for taking the action described in subpara-  
12 graph (A) to the Committee on Energy and  
13 Commerce of the House of Representatives and  
14 the Committee on Commerce, Science, and  
15 Transportation of the Senate.

16           “(2) GROUNDS FOR SUBSTITUTION.—For pur-  
17 poses of paragraph (1), the following circumstances  
18 are described in this paragraph:

19           “(A) the reassignment would seriously  
20 jeopardize the national defense interests of the  
21 United States;

22           “(B) the frequency proposed for reassign-  
23 ment is uniquely suited to meeting important  
24 governmental needs;

1           “(C) the reassignment would seriously  
2           jeopardize public health or safety; or

3           “(D) the reassignment will result in costs  
4           to the Federal Government that are excessive in  
5           relation to the benefits that may be obtained  
6           from commercial or other non-Federal uses of  
7           the reassigned frequency.

8           “(3) CRITERIA FOR SUBSTITUTED FRE-  
9           QUENCIES.—For purposes of paragraph (1), a fre-  
10          quency may not be substituted for a frequency iden-  
11          tified by the report of the Secretary under section  
12          113(a) unless the substituted frequency also meets  
13          each of the criteria specified by section 113(a).

14          “(4) DELAYS IN IMPLEMENTATION.—If the  
15          President determines that any action cannot be com-  
16          pleted by the delayed effective date recommended by  
17          the Secretary pursuant to section 113(e), or that  
18          such an action by such date would result in a fre-  
19          quency being unused as a consequence of the Com-  
20          mission’s plan under section 115, the President  
21          may—

22                 “(A) withdraw or limit the assignment to  
23                 Federal Government stations on a later date  
24                 that is consistent with such plan, except that  
25                 the President shall notify each committee speci-

1           fied in paragraph (1)(B) and the Commission  
2           of the reason that withdrawal or limitation at  
3           a later date is required; or

4                   “(B) substitute alternative frequencies pur-  
5           suant to the provisions of this subsection.

6           “(c) LIMITATION ON DELEGATION.—Notwithstand-  
7           ing any other provision of law, the authorities and duties  
8           established by this section may not be delegated.

9           **“SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COM-**  
10                   **MISSION.**

11           Not later than 1 year after the President notifies the  
12           Commission pursuant to section 114(a)(5), the Commis-  
13           sion shall prepare, in consultation with the Assistant Sec-  
14           retary when necessary, and submit to the President and  
15           the Congress, a plan for the distribution under the Act  
16           of the frequency bands reallocated pursuant to the  
17           requirements of this part. Such plan shall—

18                   “(1) not propose the immediate distribution of  
19           all such frequencies, but, taking into account the  
20           timetable recommended by the Secretary pursuant to  
21           section 113(e), shall propose—

22                   “(A) gradually to distribute the frequencies  
23           remaining, after making the reservation re-  
24           quired by subparagraph (B), over the course of

1 a period of not less than 10 years beginning on  
2 the date of submission of such plan; and

3 “(B) to reserve a significant portion of  
4 such frequencies for distribution beginning after  
5 the end of such 10-year period;

6 “(2) contain appropriate provisions to ensure—

7 “(A) the availability of frequencies for new  
8 technologies and services in accordance with the  
9 policies of section 7 of the Act (47 U.S.C. 157);  
10 and

11 “(B) the availability of frequencies to stim-  
12 ulate the development of such technologies;

13 “(3) address (A) the feasibility of reallocating  
14 spectrum from current commercial and other non-  
15 Federal uses to provide for more efficient use of the  
16 spectrum, and (B) innovation and marketplace de-  
17 velopments that may affect the relative efficiencies  
18 of different spectrum allocations; and

19 “(4) not prevent the Commission from allocat-  
20 ing bands of frequencies for specific uses in future  
21 rulemaking proceedings.

22 **“SEC. 116. AUTHORITY TO RECOVER REASSIGNED FRE-**  
23 **QUENCIES.**

24 “(a) **AUTHORITY OF PRESIDENT.**—Subsequent to the  
25 withdrawal of assignment to Federal Government stations

1 pursuant to section 114, the President may reclaim reas-  
2 signed frequencies for reassignment to Federal Govern-  
3 ment stations in accordance with this section.

4 “(b) PROCEDURE FOR RECLAIMING FRE-  
5 QUENCIES.—

6 “(1) UNALLOCATED FREQUENCIES.—If the fre-  
7 quencies to be reclaimed have not been allocated or  
8 assigned by the Commission pursuant to the Act,  
9 the President shall follow the procedures for substi-  
10 tution of frequencies established by section 114(b) of  
11 this part.

12 “(2) ALLOCATED FREQUENCIES.—If the fre-  
13 quencies to be reclaimed have been allocated or as-  
14 signed by the Commission, the President shall follow  
15 the procedures for substitution of frequencies estab-  
16 lished by section 114(b) of this part, except that the  
17 notification required by section 114(b)(1)(A) shall  
18 include—

19 “(A) a timetable to accommodate an or-  
20 derly transition for licensees to obtain new fre-  
21 quencies and equipment necessary for its utili-  
22 zation; and

23 “(B) an estimate of the cost of displacing  
24 spectrum users licensed by the Commission.

1       “(c) COSTS OF RECLAIMING FREQUENCIES; APPRO-  
2 PRIATIONS AUTHORIZED.—The Federal Government shall  
3 bear all costs of reclaiming frequencies pursuant to this  
4 section, including the cost of equipment which is rendered  
5 unusable, the cost of relocating operations to a different  
6 frequency band, and any other costs that are directly at-  
7 tributable to the reclaiming of the frequency pursuant to  
8 this section. There are authorized to be appropriated such  
9 sums as may be necessary to carry out the purposes of  
10 this section.

11       “(d) EFFECTIVE DATE OF RECLAIMED FRE-  
12 QUENCIES.—The Commission shall not withdraw licenses  
13 for any reclaimed frequencies until the end of the fiscal  
14 year following the fiscal year in which the President’s noti-  
15 fication is received.

16       “(e) EFFECT ON OTHER LAW.—Nothing in this sec-  
17 tion shall be construed to limit or otherwise affect the au-  
18 thority of the President under sections 305 and 706 of  
19 the Act (47 U.S.C. 305, 606).

20 **“SEC. 117. DEFINITIONS.**

21       As used in this part:

22               “(1) The term ‘allocation’ means an entry in  
23 the National Table of Frequency Allocations of a  
24 given frequency band for the purpose of its use by  
25 one or more radiocommunication services.

1           “(2) The term ‘assignment’ means an author-  
2           ization given to a station licensee to use specific fre-  
3           quencies or channels.

4           “(3) The term ‘commercial carrier’ means any  
5           entity that uses a facility licensed by the Federal  
6           Communications Commission pursuant to the Com-  
7           munications Act of 1934 for hire or for its own use,  
8           but does not include Federal Government stations li-  
9           censed pursuant to section 305 of the Act (47  
10          U.S.C. 305).

11          “(4) The term ‘the Act’ means the Communica-  
12          tions Act of 1934 (47 U.S.C. 151 et seq.).”.

        Passed the House of Representatives March 2,  
1993.

Attest:

*Clerk.*

HR 707 EH—2