

103D CONGRESS  
1ST SESSION

# H. R. 857

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. OXLEY (for himself, Mr. GILLMOR, and Mr. HASTERT) introduced the following bill; which was referred to the Committee on Energy and Commerce

NOVEMBER 4, 1993

Additional sponsors: Mr. ARMEY, Mr. ZIMMER, Mr. BAKER of California, Mr. ROYCE, Mr. COX, Mr. PACKARD, and Mr. DOOLITTLE

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## A BILL

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

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 “Emerging Tele-  
5 communications Technologies Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) spectrum is a valuable natural resource;

1           (2) it is in the national interest that this re-  
2 source be used more efficiently;

3           (3) the spectrum below 6 gigahertz (GHz) is  
4 becoming increasingly congested, and, as a result en-  
5 tities that develop innovative new spectrum-based  
6 services are finding it difficult to bring these services  
7 to the marketplace;

8           (4) scarcity of assignable frequencies can and  
9 will—

10           (A) impede the development and commer-  
11 cialization of new spectrum-based products and  
12 services;

13           (B) reduce the capacity and efficiency of  
14 the United States telecommunications system;  
15 and

16           (C) adversely affect the productive capacity  
17 and international competitiveness of the United  
18 States economy;

19           (5) the United States Government presently  
20 lacks explicit authority to use excess  
21 radiocommunications capacity to satisfy non-United  
22 States Government requirements;

23           (6) more efficient use of the spectrum can pro-  
24 vide the resources for increased economic returns;

1           (7) many commercial users derive significant  
2 economic benefits from their spectrum licenses, both  
3 through the income they earn from their use of the  
4 spectrum and the returns they realize upon transfer  
5 of their licenses to third parties; but under current  
6 procedures, the United States public does not suffi-  
7 ciently share in their benefits;

8           (8) many United States Government functions  
9 and responsibilities depend heavily on the use of the  
10 radio spectrum, involve unique applications, and are  
11 performed in the broad national and public interest;

12           (9) competitive bidding for spectrum can yield  
13 significant benefits for the United States economy  
14 by increasing the efficiency of spectrum allocations,  
15 assignment, and use; and for United States tax-  
16 payers by producing substantial revenues for the  
17 United States Treasury; and

18           (10) the Secretary, the President, and the Com-  
19 mission should be directed to take appropriate steps  
20 to foster the more efficient use of this valuable na-  
21 tional resource, including the reallocation of a target  
22 amount of 200 megahertz (MHz) of spectrum from  
23 United States Government use under section 305 of  
24 the Communications Act (47 U.S.C. 305) to non-  
25 United States Government use pursuant to other

1 provisions of the Communications Act and the im-  
2 plementation of competitive bidding procedures by  
3 the Commission for some new assignments of the  
4 spectrum.

5 **SEC. 3. NATIONAL SPECTRUM PLANNING.**

6 (a) **PLANNING ACTIVITIES.**—The Secretary and the  
7 Chairman of the Commission shall, at least twice each  
8 year, conduct joint spectrum planning meetings with re-  
9 spect to the following issues:

10 (1) future spectrum needs;

11 (2) the spectrum allocation actions necessary to  
12 accommodate those needs, including consideration of  
13 innovation and marketplace developments that may  
14 affect the relative efficiencies of different portions of  
15 the spectrum; and

16 (3) actions necessary to promote the efficient  
17 use of the spectrum, including proven spectrum  
18 management techniques to promote increased shared  
19 use of the spectrum as a means of increasing non-  
20 United States Government access, and innovation in  
21 spectrum utilization including means of providing in-  
22 centives for spectrum users to develop innovative  
23 services and technologies.

24 (b) **REPORTS.**—The Secretary and the Chairman of  
25 the Commission shall submit a joint annual report to the

1 President on the joint spectrum planning meetings con-  
2 ducted under subsection (a) and any recommendations for  
3 action developed in such meetings.

4 (c) OPEN PROCESS.—The Secretary and the Com-  
5 mission will conduct an open process under this section  
6 to ensure the full consideration and exchange of views  
7 among any interested entities, including all private, public,  
8 commercial, and governmental interests.

9 **SEC. 4. IDENTIFICATION OF REALLOCABLE FREQUENCIES.**

10 (a) IDENTIFICATION REQUIRED.—The Secretary  
11 shall prepare and submit to the President the reports re-  
12 quired by subsection (d) to identify bands of frequencies  
13 that—

14 (1) are allocated on a primary basis for United  
15 States Government use and eligible for licensing  
16 pursuant to section 305(a) of the Communications  
17 Act (47 U.S.C. 305(a));

18 (2) are not required for the present or identifi-  
19 able future needs of the United States Government;

20 (3) can feasibly be made available during the  
21 next 15 years after enactment of this Act for use  
22 under the provisions of the Communications Act for  
23 non-United States Government users;

24 (4) will not result in costs to the Federal Gov-  
25 ernment that are excessive in relation to the benefits

1 that may be obtained from the potential non-United  
2 States Government uses; and

3 (5) are likely to have significant value for non-  
4 United States Government uses under the Commu-  
5 nications Act.

6 (b) AMOUNT OF SPECTRUM RECOMMENDED.—

7 (1) IN GENERAL.—The Secretary shall rec-  
8 ommend as a goal for reallocation, for use by non-  
9 United States Government stations, bands of fre-  
10 quencies constituting a target amount of 200 MHz,  
11 that are located below 6 GHz, and that meet the cri-  
12 teria specified in paragraphs (1) through (5) of sub-  
13 section (a). If the Secretary identifies (as meeting  
14 such criteria) bands of frequencies totalling more  
15 than 200 MHz, the Secretary shall identify and rec-  
16 ommend for reallocation those bands (totalling not  
17 less than 200 MHz) that are likely to have the  
18 greatest potential for non-United States Government  
19 uses under the Communications Act.

20 (2) MIXED USES PERMITTED TO BE COUNT-  
21 ED.—Bands of frequencies which the Secretary rec-  
22 ommends be partially retained for use by United  
23 States Government stations, but which are also rec-  
24 ommended to be reallocated and made available  
25 under the Communications Act for use by non-

1 United States Government stations, may be counted  
2 toward the target 200 MHz of spectrum required by  
3 paragraph (1) of this subsection, except that—

4 (A) the bands of frequencies counted under  
5 this paragraph may not count toward more  
6 than one-half of the amount targeted by para-  
7 graph (1) of this subsection;

8 (B) a band of frequencies may not be  
9 counted under this paragraph unless the assign-  
10 ments of the band to United States Government  
11 stations under section 305 of the Communica-  
12 tions Act (47 U.S.C. 305) are limited by geo-  
13 graphic area, by time, or by other means so as  
14 to guarantee that the potential use to be made  
15 by which United States Government stations is  
16 substantially less (as measured by geographic  
17 area, time, or otherwise) than the potential  
18 United States Government use to be made; and

19 (C) the operational sharing permitted  
20 under this paragraph shall be subject to proce-  
21 dures which the Commission and the Depart-  
22 ment of Commerce shall establish and imple-  
23 ment to ensure against harmful interference.

24 (c) CRITERIA FOR IDENTIFICATION.—

1           (1) NEEDS OF THE UNITED STATES GOVERN-  
2           MENT.—In determining whether a band of fre-  
3           quencies meets the criteria specified in subsection  
4           (a)(2), the Secretary shall—

5                   (A) consider whether the band of fre-  
6                   quencies is used to provide a communications  
7                   service that is or could be available from a com-  
8                   mercial provider;

9                   (B) seek to promote—

10                           (i) the maximum practicable reliance  
11                           on commercially available substitutes;

12                           (ii) the sharing of frequencies (as per-  
13                           mitted under subsection (b)(2));

14                           (iii) the development and use of new  
15                           communications technologies; and

16                           (iv) the use of nonradiating commu-  
17                           nications systems where practicable; and

18                   (C) seek to avoid—

19                           (i) serious degradation of United  
20                           States Government services and oper-  
21                           ations;

22                           (ii) excessive costs to the United  
23                           States Government and civilian users of  
24                           such Government services; and

1 (iii) identification of any bands for  
2 reallocation that are likely to be subject to  
3 substitution for the reasons specified in  
4 section 5(b)(2) (A) through (C).

5 (2) FEASIBILITY OF USE.—In determining  
6 whether a frequency band meets the criteria speci-  
7 fied in subsection (a)(3), the Secretary shall—

8 (A) assume such frequencies will be as-  
9 signed by the Commission under section 303 of  
10 the Communications Act (47 U.S.C. 303) over  
11 the course of fifteen years after the enactment  
12 of this Act;

13 (B) assume reasonable rates of scientific  
14 progress and growth of demand for tele-  
15 communications services;

16 (C) determine the extent to which the  
17 reallocation or reassignment will relieve actual  
18 or potential scarcity of frequencies available for  
19 non-United States Government use;

20 (D) seek to include frequencies which can  
21 be used to stimulate the development of new  
22 technologies; and

23 (E) consider the cost to reestablish United  
24 States Government services displaced by the

1           reallocation of spectrum during the fifteen year  
2           period.

3           (3) COSTS TO THE UNITED STATES GOVERN-  
4           MENT.—In determining whether a frequency band  
5           meets the criteria specified in subsection (a)(4), the  
6           Secretary shall consider—

7                   (A) the costs to the United States Govern-  
8                   ment of reaccommodating its services in order  
9                   to make spectrum available for non-United  
10                  States Government use, including the incremen-  
11                  tal costs directly attributable to the loss of the  
12                  use of the frequency band; and

13                   (B) the benefits that could be obtained  
14                   from reallocating such spectrum to non-United  
15                   States Government users, including the value of  
16                   such spectrum in promoting—

17                           (i) the delivery of improved service to  
18                           the public;

19                           (ii) the introduction of new services;  
20                           and

21                           (iii) the development of new commu-  
22                           nications technologies.

23           (4) NON-UNITED STATES GOVERNMENT USE.—  
24           In determining whether a band of frequencies meets

1 the criteria specified in subsection (a)(5), the Sec-  
2 retary shall consider—

3 (A) the extent to which equipment is com-  
4 mercially available that is capable of utilizing  
5 the band; and

6 (B) the proximity of frequencies that are  
7 already assigned for non-United States Govern-  
8 ment use.

9 (d) PROCEDURE FOR IDENTIFICATION OF  
10 REALLOCABLE BANDS OF FREQUENCIES.—

11 (1) SUBMISSION OF REPORTS TO THE PRESI-  
12 DENT.—

13 (A) Within 6 months after the date of the  
14 enactment of this Act, the Secretary shall pre-  
15 pare and submit to the President a report  
16 which specifically identifies an initial 30 MHz  
17 of spectrum, to be made available for  
18 reallocation upon issuance of this report, and to  
19 be distributed by the Commission pursuant to  
20 competitive bidding procedures.

21 (B) Within 12 months after the date of the  
22 enactment of this Act, the Secretary shall pre-  
23 pare and submit to the President a preliminary  
24 report to identify reallocable bands of fre-

1           quencies meeting the criteria established by this  
2           section.

3           (C) Within 24 months after the date of en-  
4           actment of this Act, the Secretary shall prepare  
5           and submit to the President a final report  
6           which identifies the target 200 MHz for  
7           reallocation (which shall encompass the initial  
8           30 MHz previously designated under subpara-  
9           graph (A) of this paragraph).

10          (D) The President shall publish the reports  
11          required by this paragraph in the Federal Reg-  
12          ister.

13          (2) CONVENING OF PRIVATE SECTOR ADVISORY  
14          COMMITTEE.—Not later than 12 months after the  
15          enactment of this Act, the Secretary shall convene a  
16          private sector advisory committee to—

17                 (A) review the bands of frequencies identi-  
18                 fied in the preliminary report required by para-  
19                 graph (1)(B);

20                 (B) advise the Secretary with respect to—

21                         (i) the bands of frequencies which  
22                         should be included in the final report re-  
23                         quired by paragraph (1)(C); and

1 (ii) the effective dates which should be  
2 established under subsection (e) with re-  
3 spect to such frequencies; and

4 (C) receives public comment on the Sec-  
5 retary's preliminary and final reports under this  
6 subsection.

7 The private sector advisory committee shall meet at  
8 least quarterly until each of the actions required by  
9 section 5(a) have taken place.

10 (3) COMPOSITION OF COMMITTEE; CHAIR-  
11 MAN.—The private sector advisor committee shall in-  
12 clude—

13 (A) the Chairman of the Commission, and  
14 the Secretary, or their designated representa-  
15 tives, and two other representatives from two  
16 different United States Government agencies  
17 that are spectrum users, other than the Depart-  
18 ment of Commerce, as such agencies may be  
19 designated by the Secretary; and

20 (B) persons who are representative of—

21 (i) manufacturers of spectrum-de-  
22 pendent telecommunications equipment;

23 (ii) commercial users;

24 (iii) other users of the electromagnetic  
25 spectrum; and

1 (iv) other interested members of the  
2 public who are knowledgeable about the  
3 uses of the electromagnetic spectrum to be  
4 chosen by the Secretary.

5 A majority of the members of the committee shall be  
6 members described in subparagraph (B), and one of  
7 such members shall be designated as chairman by  
8 the Secretary.

9 (e) TIMETABLE FOR REALLOCATION AND LIMITA-  
10 TION.—The Secretary shall, as part of the final report re-  
11 quired by subsection (d)(1)(C), include a timetable for the  
12 effective dates by which the President shall, within 15  
13 years after enactment of this Act, withdraw or limit as-  
14 signments on frequencies specified in the report. The rec-  
15 ommended effective dates shall—

16 (1) permit the earliest possible reallocation of  
17 the frequency bands, taking into account the re-  
18 quirements of section 6(a);

19 (2) be based on the useful remaining life of  
20 equipment that has been purchased or contracted for  
21 to operate on identified frequencies;

22 (3) be based on the need to coordinate fre-  
23 quency use with other nations; and

24 (4) avoid the imposition of incremental costs on  
25 the United States Government directly attributable

1 to the loss of the use of frequencies or the changing  
2 to different frequencies that are excessive in relation  
3 to the benefits that may be obtained from non-Unit-  
4 ed States Government uses of the reassigned fre-  
5 quencies.

6 **SEC. 5. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES**  
7 **GOVERNMENT STATIONS.**

8 (a) IN GENERAL.—The President shall—

9 (1) within three months after receipt of the  
10 Secretary's report under section 4(d)(1)(A), with-  
11 draw or limit the assignment to a United States  
12 Government station of any frequency on the initial  
13 30 MHz which that report recommends for imme-  
14 diate reallocation;

15 (2) with respect to other frequencies rec-  
16 ommended for reallocation by the Secretary's report  
17 in section 4(d)(1)(C), by the effective dates rec-  
18 ommended pursuant to section 4(e) (except as pro-  
19 vided in section (b)(4)), withdraw or limit the as-  
20 signment to a United States Government station of  
21 any frequency which that report recommends be re-  
22 allocated or available for mixed use on such effective  
23 dates;

24 (3) assign or reassign other frequencies to  
25 United States Government stations as necessary to

1 adjust to such withdrawal or limitation of assign-  
2 ments; and

3 (4) publish in the Federal Register a notice and  
4 description of the actions taken under this sub-  
5 section.

6 (b) EXCEPTIONS.—

7 (1) AUTHORITY TO SUBSTITUTE.—If the Presi-  
8 dent determines that a circumstance described in  
9 section 5(b)(2) exists, the President—

10 (A) may, within one month after receipt of  
11 the Secretary's report under section 4(d)(1)(A),  
12 and within six months after receipt of the Sec-  
13 retary's report under section 4(d)(1)(C), sub-  
14 stitute an alternative frequency or band of fre-  
15 quencies for the frequency or band that is sub-  
16 ject to such determination and withdraw (or  
17 limit) the assignment of that alternative fre-  
18 quency or band in the manner required by sub-  
19 section (a); and

20 (B) shall publish in the Federal Register a  
21 statement of the reasons for taking the action  
22 described in subparagraph (A).

23 (2) GROUNDS FOR SUBSTITUTION.—For pur-  
24 poses of paragraph (1), the following circumstances  
25 are described in this paragraph:

1 (A) the reassignment would seriously jeop-  
2 ardize the national security interests of the  
3 United States;

4 (B) the frequency proposed for reassign-  
5 ment is uniquely suited to meeting important  
6 United States Governmental needs;

7 (C) the reassignment would seriously jeop-  
8 ardize public health or safety; or

9 (D) the reassignment will result in incre-  
10 mental costs to the United States Government  
11 that are excessive in relation to the benefits  
12 that may be obtained from non-United States  
13 Government uses of the reassigned frequency.

14 (3) CRITERIA FOR SUBSTITUTED FRE-  
15 QUENCIES.—For purposes of paragraph (1), a fre-  
16 quency may not be substituted for a frequency iden-  
17 tified by the final report of the Secretary under sec-  
18 tion 4(d)(1)(C) unless the substituted frequency also  
19 meets each of the criteria specified by section 4(a).

20 (4) DELAYS IN IMPLEMENTATION.—If the  
21 President determines that any action cannot be com-  
22 pleted by the effective dates recommended by the  
23 Secretary pursuant to section 4(e), or that such an  
24 action by such date would result in a frequency

1 being unused as a consequence of the Commission's  
2 plan under section 6, the President may—

3 (A) withdraw or limit the assignment to  
4 United States Government stations on a later  
5 date that is consistent with such plan, by pro-  
6 viding notice to that effect in the Federal Reg-  
7 ister, including the reason that withdrawal at a  
8 later date is required; or

9 (B) substitute alternative frequencies pur-  
10 suant to the provisions of this subsection.

11 (c) COSTS OF WITHDRAWING FREQUENCIES AS-  
12 SIGNED TO THE UNITED STATES GOVERNMENT; APPRO-  
13 PRIATIONS AUTHORIZED.—Any United States Govern-  
14 ment licensee, or non-United States Government entity op-  
15 erating on behalf of a United States Government licensee,  
16 that is displaced from a frequency pursuant to this section  
17 may be reimbursed not more than the incremental costs  
18 it incurs, in such amounts as provided in advance in ap-  
19 propriation acts, that are directly attributable to the loss  
20 of the use of the frequency pursuant to this section. The  
21 estimates of these costs shall be prepared by the affected  
22 agency, in consultation with the Department of Com-  
23 merce.

24 (d) APPROPRIATIONS AUTHORIZED.—There are au-  
25 thorized to be appropriated to the affected licensee agen-

1 cies such sums as may be necessary to carry out the pur-  
2 poses of this section.

3 **SEC. 6. DISTRIBUTION OF FREQUENCIES BY THE COMMIS-**  
4 **SION.**

5 (a) PLANS SUBMITTED.—

6 (1) With respect to the initial 30 MHz to be re-  
7 allocated from United States Government to non-  
8 United States Government use under section  
9 4(d)(1)(A), not later than 24 months after enact-  
10 ment of this Act, the Commission shall complete a  
11 public notice and comment proceeding regarding the  
12 allocation of this spectrum and shall form a plan to  
13 assign such spectrum pursuant to competitive bid-  
14 ding procedures, pursuant to section 309(j) of the  
15 Communications Act, during fiscal years 1996  
16 through 1998.

17 (2) With respect to the remaining spectrum to  
18 be reallocated from United States Government to  
19 non-United States Government use under section  
20 4(e), not later than two years after issuance of the  
21 report required by section 4(d)(1)(C), the Commis-  
22 sion shall complete a public notice and comment pro-  
23 ceeding; and the Commission shall, after consulta-  
24 tion with the Secretary, prepare and submit to the  
25 President a plan for the distribution under the Com-

1       munications Act of the frequency bands reallocated  
2       pursuant to the requirements of this Act. Such plan  
3       shall—

4               (A) not propose the immediate distribution  
5       of all such frequencies, but, taking into account  
6       the timetable recommended by the Secretary  
7       pursuant to section 4(e), shall propose—

8                   (i) gradually to distribute the fre-  
9       quencies remaining, after making the res-  
10      ervation required by subparagraph (ii),  
11      over the course of a ten-year period begin-  
12      ning on the date of submission of such  
13      plan; and

14                  (ii) to reserve a significant portion of  
15      such frequencies for distribution beginning  
16      after the end of such ten-year period;

17               (B) contain appropriate provisions to en-  
18      sure—

19                   (i) the availability of frequencies for  
20      new technologies and services in accord-  
21      ance with the policies of section 7 of the  
22      Communications Act (47 U.S.C. 157); and

23                   (ii) the availability of frequencies to  
24      stimulate the development of such tech-  
25      nologies; and

1 (C) not prevent the Commission from allo-  
2 cating bands of frequencies for specific uses in  
3 future rulemaking proceedings.

4 (b) AMENDMENT TO THE COMMUNICATIONS ACT.—  
5 Section 303 of the Communications Act is amended by  
6 adding at the end thereof the following new subsection (u)  
7 (indicating that the Commission shall):

8 “(u) Have authority to assign the frequencies reallo-  
9 cated from United States Government use to non-United  
10 States Government use pursuant to the Emerging Tele-  
11 communications Technologies Act of 1993: *Provided*, That  
12 any such assignment shall expressly be made subject to  
13 the right of the President to reclaim such frequencies  
14 under the provisions of section 7 of the Emerging Tele-  
15 communications Technologies Act of 1993.”.

16 **SEC. 7. AUTHORITY TO RECLAIM REASSIGNED FRE-**  
17 **QUENCIES.**

18 (a) AUTHORITY OF PRESIDENT.—The President may  
19 reclaim reallocated frequencies for reassignment to United  
20 States Government stations in accordance with this sec-  
21 tion.

22 (b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

23 (1) UNASSIGNED FREQUENCIES.—If the fre-  
24 quencies to be reclaimed have not been assigned by  
25 the Commission, the President may reclaim them

1 based on the grounds described in section 5(b)(2) of  
2 this Act.

3 (2) ASSIGNED FREQUENCIES.—If the fre-  
4 quencies to be reclaimed have been assigned by the  
5 Commission, the President may reclaim them based  
6 on the grounds described in section 5(b)(2) of this  
7 Act, except that the notification required by section  
8 5(b)(1) shall include—

9 (A) a timetable to accommodate an orderly  
10 transition for licensees to obtain new fre-  
11 quencies and equipment necessary for their uti-  
12 lization; and

13 (B) an estimate of the cost of displacing  
14 the licensees.

15 (c) COSTS OF RECLAIMING FREQUENCIES.—Any  
16 non-United States Government licensee that is displaced  
17 from a frequency pursuant to this section shall be reim-  
18 bursed the incremental costs it incurs that are directly at-  
19 tributable to the loss of the use of the frequency pursuant  
20 to this section.

21 (d) EFFECT ON OTHER LAW.—Nothing in this sec-  
22 tion shall be construed to limit or otherwise affect the au-  
23 thority of the President under section 706 of the Commu-  
24 nications Act (47 U.S.C. 606).

1 **SEC. 8. COMPETITIVE BIDDING.**

2 (a) COMPETITIVE BIDDING AUTHORIZED.—Section  
3 309 of the Communications Act is amended to add a new  
4 subsection (j) providing that:

5 “(j)(1) The Commission shall, subject to the exclu-  
6 sions listed in paragraph (2) of this subsection, use com-  
7 petitive bidding for awarding all initial licenses or new  
8 construction permits, including licenses and permits for  
9 spectrum reallocated for non-United States Government  
10 use pursuant to the Emerging Telecommunications Tech-  
11 nologies Act of 1993 in accordance with the following pro-  
12 cedures:

13 “(A) The Commission shall require potential  
14 bidders to file a first-stage application indicating an  
15 intent to participate in the competitive bidding proc-  
16 ess and containing such other information as the  
17 Commission finds necessary. After conducting the  
18 bidding, the Commission shall require the winning  
19 bidder to submit a second-stage application. Upon  
20 determining that such application is acceptable for  
21 filing and that the applicant is qualified pursuant to  
22 subparagraph (B) of this paragraph, the Commis-  
23 sion shall grant a permit or license.

24 “(B) No construction permit or license shall be  
25 granted to an applicant selected pursuant to sub-  
26 paragraph (A) of this paragraph unless the Commis-

1 sion determines that such applicant is qualified pur-  
2 suant to section 308(b) and section 309(a) of the  
3 Communications Act, on the basis of the information  
4 contained in the first- and second-stage applications  
5 submitted under subparagraph (A) of this para-  
6 graph.

7 “(C) Each participant in the competitive bid-  
8 ding process is subject to the schedule of changes  
9 contained in section 8 of the Communications Act  
10 (47 U.S.C. 158).

11 “(D) The Commission shall have the authority  
12 in awarding construction permits or licenses under  
13 competitive bidding procedures to (i) define the geo-  
14 graphic and frequency limitations and technical re-  
15 quirements, if any, of such permits or licenses; (ii)  
16 establish minimum acceptable competitive bids; and  
17 (iii) establish other appropriate conditions on such  
18 permits and licenses that will serve the public  
19 interest.

20 “(E) The Commission shall, within eighteen  
21 months after enactment of the Emerging Tele-  
22 communications Technologies Act of 1993, following  
23 public notice and comment proceedings, adopt rules  
24 establishing competitive bidding procedures under  
25 this subsection, including the method of bidding and

1 the basis for payment (such as flat fees, fixed or  
2 variable royalties, combinations of flat fees and roy-  
3 alties, or other reasonable forms of payment); and a  
4 plan for applying such competitive bidding proce-  
5 dures to the initial 30 MHz reallocated from United  
6 States Government to non-United States Govern-  
7 ment use under section 4(d)(1)(A) of the Emerging  
8 Telecommunications Technologies Act of 1993, to be  
9 distributed during the fiscal years 1996 through  
10 1998.

11 “(F) The Commission shall take into particular  
12 account the new technological benefits derived from  
13 awarding construction permits or licenses under  
14 competitive bidding procedures.

15 “(G) The Commission shall not exclude any  
16 qualified applicant from bidding for initial licenses  
17 or permits for spectrum under the competitive bid-  
18 ding procedures authorized by this subsection. In de-  
19 termining qualified applicants, the Commission shall  
20 require an applicant to establish threshold technical  
21 and financial commitment requirements to ensure  
22 against speculative ventures.

23 “(2) Competitive bidding shall not apply to:

24 “(A) license renewals;

1           “(B) the United States Government and State  
2 or local government entities;

3           “(C) amateur operator services, public radio  
4 broadcast services, public television broadcast serv-  
5 ices, public safety services, and radio astronomy  
6 services;

7           “(D) private radio end-user licenses, such as  
8 Specialized Mobile Radio Service (SMRS), maritime,  
9 and aeronautical end-user licenses;

10           “(E) any license grant to a non-United States  
11 Government licensee being moved from its current  
12 frequency assignment to a different one by the Com-  
13 mission in order to implement the goals and objec-  
14 tives underlying the Emerging Telecommunications  
15 Technologies Act of 1993;

16           “(F) any other service, class of services, or as-  
17 signments that the Commission determines, after  
18 conducting public comment and notice proceedings,  
19 should be exempt from competitive bidding because  
20 of public interest factors warranting an exemption.”.

21           (b) RANDOM SELECTION NOT TO APPLY WHEN  
22 COMPETITIVE BIDDING REQUIRED.—Section 309(i)(1) of  
23 the Communications Act (47 U.S.C. 309) is amended by  
24 inserting after “selection” the following: “, except in in-

1 stances where competitive bidding procedures are required  
2 under subsection (j) of this section”.

3 (c) SPECTRUM ALLOCATION DECISIONS.—Section  
4 303 of the Communications Act is amended to add a new  
5 subsection (v):

6 “(v) In making spectrum allocation decisions among  
7 services that are subject to competitive bidding, the Com-  
8 mission is authorized to consider as one factor among oth-  
9 ers taken into account in making its determination, the  
10 relative economic values and other public interest benefits  
11 of the proposed uses as reflected in the potential revenues  
12 that would be collected under its competitive bidding pro-  
13 cedures.”.

14 **SEC. 9. DEFINITIONS.**

15 As used in this Act—

16 (1) The term “allocation” means an entry in  
17 the National Table of Frequency Allocations of a  
18 given frequency band for the purpose of its use by  
19 one or more radiocommunications services.

20 (2) The term “assignment” means an author-  
21 ization given by the Commission or the United  
22 States Government for a radio station to use a radio  
23 frequency or radio frequency channel.

24 (3) The term “Commission” means the Federal  
25 Communications Commission.

1           (4) The term “Communications Act” means the  
2           Communications Act of 1934, as amended (47  
3           U.S.C. 151 et seq.).

4           (5) The term “Secretary” means the Secretary  
5           of Commerce.

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