

117TH CONGRESS
1ST SESSION

H. R. 5378

To make available additional frequencies in the 3.1–3.45 GHz band for non-Federal use, shared Federal and non-Federal use, or a combination thereof, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2021

Mr. MICHAEL F. DOYLE of Pennsylvania (for himself and Ms. MATSUI) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To make available additional frequencies in the 3.1–3.45 GHz band for non-Federal use, shared Federal and non-Federal use, or a combination thereof, 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 “Spectrum Innovation
5 Act of 2021”.

6 **SEC. 2. SPECTRUM AUCTIONS AND INNOVATION.**

7 (a) DEFINITIONS.—In this section:

1 (1) ASSISTANT SECRETARY.—The term “Assist-
2 ant Secretary” means the Assistant Secretary of
3 Commerce for Communications and Information.

4 (2) COMMISSION.—The term “Commission”
5 means the Federal Communications Commission.

6 (3) COVERED BAND.—The term “covered
7 band” means the band of frequencies between 3100
8 megahertz and 3450 megahertz, inclusive.

9 (4) FEDERAL ENTITY.—The term “Federal en-
10 tity” has the meaning given such term in section
11 113(l) of the National Telecommunications and In-
12 formation Administration Organization Act (47
13 U.S.C. 923(l)).

14 (5) RELEVANT CONGRESSIONAL COMMIT-
15 TEES.—The term “relevant congressional commit-
16 tees” means—

17 (A) the Committee on Energy and Com-
18 merce of the House of Representatives;

19 (B) the Committee on Commerce, Science,
20 and Transportation of the Senate;

21 (C) the Committee on Armed Services of
22 the House of Representatives; and

23 (D) the Committee on Armed Services of
24 the Senate.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

3 (b) 3.1–3.45 GHZ BAND.—

4 (1) PIPELINE FUNDING.—

5 (A) IN GENERAL.—Immediately following
6 the approval under subparagraph (E) of sub-
7 section (g)(2) of section 118 of the National
8 Telecommunications and Information Adminis-
9 tration Organization Act (47 U.S.C. 928) of a
10 plan submitted under subparagraph (D)(i)(I) of
11 such subsection by a Federal entity with oper-
12 ations in the covered band, the Director of the
13 Office of Management and Budget shall trans-
14 fer to such Federal entity from the Spectrum
15 Relocation Fund established under such section
16 \$50,000,000 for such Federal entity to carry
17 out activities described in subparagraph (A) of
18 such subsection in order to make available the
19 entire covered band for non-Federal use, shared
20 Federal and non-Federal use, or a combination
21 thereof, including by making available—

22 (i) frequencies in the covered band for
23 identification by the Secretary under para-
24 graph (2)(A); and

1 (ii) frequencies in the covered band
2 for identification by the Secretary under
3 paragraph (2)(B).

4 (B) EXEMPTION.—Section
5 118(g)(2)(D)(ii) of the National Telecommuni-
6 cations and Information Administration Organi-
7 zation Act (47 U.S.C. 928(g)(2)(D)(ii)) shall
8 not apply with respect to the payment required
9 under subparagraph (A).

10 (C) CONSIDERATION OF COMMON PLAT-
11 FORM.—In carrying out activities using a pay-
12 ment under subparagraph (A), any Federal en-
13 tity receiving such a payment shall consider fa-
14 cilitating the sharing of spectrum between Fed-
15 eral and non-Federal users implemented
16 through a Federal user informing common plat-
17 form developed by the Assistant Secretary, in
18 coordination with the Commission.

19 (D) OVERSIGHT.—The Assistant Secretary
20 and the Executive Office of the President shall
21 continuously review and provide oversight of the
22 activities carried out using a payment under
23 subparagraph (A).

24 (E) REPORT TO SECRETARY OF COMMERCE
25 AND CONGRESS.—Not later than 18 months

1 after the date of enactment of this Act, for the
2 purposes of aiding the Secretary in making the
3 identification under paragraph (2) and in-
4 formed by the activities carried out using a pay-
5 ment under subparagraph (A), any Federal en-
6 tity receiving such a payment, in consultation
7 with the Assistant Secretary and the Executive
8 Office of the President, shall submit to the Sec-
9 retary and the relevant congressional commit-
10 tees a report that—

11 (i) contains the findings of the activi-
12 ties carried out using such payment; and

13 (ii) recommends—

14 (I) frequencies in the covered
15 band for identification by the Sec-
16 retary under paragraph (2)(A); and

17 (II) frequencies in the covered
18 band for identification by the Sec-
19 retary under paragraph (2)(B).

20 (2) IDENTIFICATION.—Not later than 24
21 months after the date of enactment of this Act, in-
22 formed by the activities carried out using a payment
23 under paragraph (1)(A) and the report required
24 under paragraph (1)(E), the Secretary, in consulta-
25 tion with the Secretary of Defense, the Director of

1 the Office of Science and Technology Policy, and the
2 Commission, shall submit to the President, the Com-
3 mission, and the relevant congressional committees a
4 report that—

5 (A) identifies for inclusion in a system of
6 competitive bidding under paragraph (3) at
7 least 200 megahertz of frequencies in the cov-
8 ered band for non-Federal use, shared Federal
9 and non-Federal use, or a combination thereof;
10 and

11 (B) identifies additional frequencies in the
12 covered band that could be made available for
13 non-Federal use, shared Federal and non-Fed-
14 eral use, or a combination thereof.

15 (3) AUCTION.—

16 (A) IN GENERAL.—Not later than 7 years
17 after the date of enactment of this Act, the
18 Commission, in coordination with the Assistant
19 Secretary, shall commence a system of competi-
20 tive bidding under section 309(j) of the Com-
21 munications Act of 1934 (47 U.S.C. 309(j)), in
22 accordance with paragraph (2) of this sub-
23 section, of the frequencies identified under sub-
24 paragraph (A) of that paragraph.

1 (B) PROHIBITION.—No entity that is on
2 the list required by section 2 of the Secure and
3 Trusted Communications Networks Act of 2019
4 (47 U.S.C. 1601) may participate in the system
5 of competitive bidding required by subpara-
6 graph (A).

7 (4) MODIFICATION OR WITHDRAWAL.—

8 (A) IN GENERAL.—The President shall
9 modify or withdraw any assignment to a Fed-
10 eral Government station of the frequencies iden-
11 tified under paragraph (2)(A) to accommodate
12 non-Federal use, shared Federal and non-Fed-
13 eral use, or a combination thereof in accordance
14 with that paragraph.

15 (B) LIMITATIONS.—The President may not
16 modify or withdraw any assignment to a Fed-
17 eral Government station as described in sub-
18 paragraph (A)—

19 (i) unless the President determines
20 that such modification or withdrawal will
21 not compromise the primary mission of a
22 Federal entity operating in the covered
23 band; or

24 (ii) before November 30, 2024.

1 (5) AUCTION PROCEEDS TO COVER 110 PER-
2 CENT OF FEDERAL RELOCATION OR SHARING
3 COSTS.—Nothing in this subsection shall be con-
4 strued to relieve the Commission from the require-
5 ments under section 309(j)(16)(B) of the Commu-
6 nications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

7 (6) RULES AUTHORIZING ADDITIONAL USE OF
8 SPECTRUM IN COVERED BAND.—Not later than 4
9 years after the date of enactment of this Act, the
10 Commission, in consultation with the Assistant Sec-
11 retary, shall adopt rules that authorize the use of
12 spectrum in the covered band identified under para-
13 graph (2)(B) for non-Federal use, shared Federal
14 and non-Federal use, or a combination thereof.

15 (7) OPPORTUNISTIC USE OF IDENTIFIED FRE-
16 QUENCIES.—

17 (A) IN GENERAL.—Not later than 4 years
18 after the date of enactment of this Act, if the
19 President modifies or withdraws assignments
20 under paragraph (4), or if the President accom-
21 modates the use described in paragraph (2)(A)
22 without such modification or withdrawal, the
23 Commission, in coordination with the Assistant
24 Secretary, shall allow for the opportunistic use
25 of the frequencies identified under such para-

1 graph before the auction required by paragraph
2 (3) is conducted. Opportunistic use, if such use
3 is inconsistent with the rights of licensees that
4 obtained licenses through such auction, shall
5 cease upon the issuance by the Commission of
6 such licenses.

7 (B) LIMITATION.—The Commission may
8 allow for opportunistic use described in sub-
9 paragraph (A) only if the President, in con-
10 sultation with the Assistant Secretary, deter-
11 mines that the primary mission of Federal enti-
12 ties in the covered band will not be com-
13 promised by the introduction of devices oper-
14 ating in the covered band.

15 (c) FCC AUCTION AUTHORITY.—

16 (1) TERMINATION.—Section 309(j)(11) of the
17 Communications Act of 1934 (47 U.S.C. 309(j)(11))
18 is amended by striking “2025” and all that follows
19 and inserting “2025, and with respect to the electro-
20 magnetic spectrum identified under section
21 2(b)(2)(A) of the Spectrum Innovation Act of 2021,
22 such authority shall expire on the date that is 7
23 years after the date of enactment of that Act.”.

1 (2) SPECTRUM PIPELINE ACT OF 2015.—The
2 Spectrum Pipeline Act of 2015 (Public Law 114–74;
3 129 Stat. 621) is amended—

4 (A) in section 1004—

5 (i) in subsection (a), by striking
6 “2022” and inserting “2024”; and

7 (ii) in subsection (b)(1), by striking
8 “2022” and inserting “2024”; and

9 (B) in section 1006(c)(1), by striking “Not
10 later” and all that follows through “for at
11 least” and inserting “Not later than January 1,
12 2024, for at least”.

13 (d) RELATIONSHIP TO OTHER LAW.—

14 (1) IN GENERAL.—This section and the amend-
15 ments made by this section shall apply instead of
16 any other provision of law relating to the covered
17 band that is enacted during the period beginning on
18 September 24, 2021, and ending on January 1,
19 2022.

20 (2) RULE OF CONSTRUCTION.—For purposes of
21 paragraph (1), a provision of law that applies both
22 to frequencies in the covered band and to other fre-
23 quencies may not be construed to relate to the cov-
24 ered band.

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