

TITLE IV--COMMUNICATIONS AND TRANSPORTATION

Subtitle A--Spectrum Allocation and Auction

1 SEC. 401. SHORT TITLE.

2 This subtitle may be cited as the "Emerging
3 Telecommunications Technologies Act of 1993".

4 SEC. 402. FINDINGS.

5 The Congress finds that--

6 (1) the Federal Government currently reserves for its own
7 use, or has priority of access to, approximately 40 percent of
8 the electromagnetic spectrum that is assigned for use pursuant
9 to the Communications Act of 1934;

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

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

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

18 (5) scarcity of assignable frequencies for licensing by
19 the Commission can and will--

20 (A) impede the development and commercialization of
21 new telecommunications products and services;

22 (B) limit the capacity and efficiency of
23 telecommunications systems in the United States;

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

4 (D) adversely affect the productive capacity and
5 international competitiveness of the United States
6 economy;

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

9 (7) a reassignment of Federal Government frequencies can
0 be accomplished without adverse impact on amateur radio
1 licenses that currently share allocations with Federal
2 Government stations;

3 (8) current spectrum assignment procedures -- comparative
4 hearings and lotteries -- can be expensive and time consuming,
5 can strain the limited resources of the Federal Communications
6 Commission, and can result in an inefficient distribution of
7 spectrum and an unjustified windfall to speculators;

8 (9) competitive bidding could reduce the cost in time and
9 money -- and increase the efficiency -- of the spectrum
0 assignment process for certain radio services, discourage
1 speculative applications, encourage the efficient use of
2 spectrum by licensees, and fairly compensate United States
3 taxpayers for use of a scarce public natural resource;

4 (10) competitive bidding should be structured to--

1 (A) facilitate introduction of new spectrum-based
2 technologies and services and entry of new companies into
3 the telecommunications market;

4 (B) recognize the legitimate needs of rural
5 telephone companies in providing spectrum-based, common
6 carrier services in rural markets in which they provide
7 telephone exchange service by wire;

8 (C) give appropriate consideration to small
9 businesses and minority-owned businesses that want to
10 participate in the competitive bidding process;

11 (D) recognize the need to make reasonably priced
12 mobile communications services available to businesses in
13 rural areas;

14 (E) recognize the need to ensure that adequate
15 spectrum continues to be available for public safety
16 services; and

17 (F) otherwise further the public interest;

18 (11) competitive bidding should apply only to the
19 granting of new spectrum licenses and should not--

20 (A) disrupt the operations of existing spectrum
21 licensees;

22 (B) alter existing spectrum allocation procedures;

23 (C) apply to certain services governed by public
24 interest regulations;

1 (D) diminish the existing authority of the Federal
2 Communications Commission to regulate or reclaim spectrum
3 licenses;

4 (E) prevent or discourage the allocation of spectrum
5 to meet the current or future needs of public safety
6 services; or

7 (F) grant any right to a spectrum licensee different
8 from the rights awarded to licensees who obtain their
9 license through assignment methods other than competitive
10 bidding;

11 (12) in appropriating revenues received from competitive
12 bidding, priority should be given to--

13 (A) funding spectrum management, planning,
14 monitoring, and enforcement and other activities of the
15 Federal Communications Commission, the National
16 Telecommunications and Information Administration, and
17 other Federal agencies aimed at increasing the efficiency
18 and effectiveness of spectrum use, facilitating the
19 introduction of new spectrum-based technologies and
20 services, and enhancing the international competitiveness
21 of the United States and the ability of American
22 companies to enter new markets; and

23 (B) extending the reach of public radio and
24 television to underserved areas of the United States and
25 underserved groups of Americans and enhancing the ability

1 of public telecommunications to deliver needed original,
2 high-quality public service programming; and

3 (13) because commercial mobile services require a Federal
4 license and the Federal Government is attempting to promote
5 competition for such services, and because providers of such
6 services do not exercise market power vis-a-vis telephone
7 exchange service carriers and State regulation can be a
8 barrier to the development of competition in this market,
9 uniform national policy is necessary and in the public
10 interest.

11 **SEC. 403. NATIONAL SPECTRUM PLANNING.**

12 (a) PLANNING ACTIVITIES.--The Assistant Secretary of Commerce
13 for Communications and Information and the Chairman of the
14 Commission shall meet, at least biannually, to conduct joint
15 spectrum planning with respect to the following issues:

16 (1) the future spectrum requirements for public and
17 private uses, including State and local government public
18 safety agencies;

19 (2) the spectrum allocation actions necessary to
20 accommodate those uses; and

21 (3) actions necessary to promote the efficient use of the
22 spectrum, including spectrum management techniques to promote
23 increased shared use of the spectrum that does not cause
24 harmful interference, as a means of increasing commercial
25 access.

1 (b) REPORT ON PLANNING ACTIVITIES.--Not later than 24 months
2 after the date of enactment of this Act, the Assistant Secretary of
3 Commerce for Communications and Information and the Chairman of the
4 Commission shall submit a joint report to the Committee on Energy
5 and Commerce of the House of Representatives and the Committee on
6 Commerce, Science, and Transportation of the Senate on the joint
7 spectrum planning activities conducted under subsection (a) and
8 recommendations for action developed pursuant to such activities.
9 The report shall contain recommendations for the reform of the
10 process of allocating spectrum between Federal uses and non-Federal
11 uses.

12 (c) PROCEDURES TO ENSURE OPPORTUNITY FOR MINORITY-OWNED
13 BUSINESSES AND SMALL BUSINESSES.--The Commission shall develop
14 procedures to ensure that minority-owned businesses and small
15 businesses are given the opportunity to provide spectrum-based
16 services. In developing such procedures, the Commission shall
17 consider the use of tax certificates and bidding preferences.

18 (d) STUDY ON SPECTRUM NEEDS OF PUBLIC SAFETY AGENCIES.--The
19 Commission shall complete and submit to Congress, not later than 18
20 months after the date of enactment of this Act, a study of current
21 and future spectrum needs of State and local government public
22 safety agencies through the year 2010, and a specific plan to
23 satisfy those spectrum needs.

24 **SEC. 404. RECOMMENDATIONS FOR REALLOCATION OF CERTAIN**
25 **FREQUENCIES.**

1 (a) IDENTIFICATION REQUIRED.--For purposes of reallocation,
2 the Secretary shall identify frequencies that--

3 (1) are allocated on a primary basis for Federal
4 Government use;

5 (2) are not required for the present or identifiable
6 future needs of the Federal Government;

7 (3) can feasibly be made available, as of the date of
8 such identification or at any time during the next 15 years,
9 for use under the Act (other than for Federal Government
10 stations under section 305 of the Act) without resulting in
11 costs to the Federal Government, or loss of services or
12 benefits to the public, that are excessive in relation to the
13 benefits to the public that may be provided by non-Federal
14 licensees; and

15 (4) are most likely to have the greatest potential for
16 productive uses and public benefits under the Act if allocated
17 for commercial uses.

18 (b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.--

19 (1) OVERALL RECOMMENDATION.--In accordance with the
20 provisions of this section, the Secretary shall recommend for
21 reallocation, for use other than by Federal Government
22 stations under section 305 of the Act (47 U.S.C. 305), at
23 least 200 megahertz of frequencies identified under subsection
24 (a) that are located below 5 gigahertz. At least one-half of
25 such frequencies shall be located below 3 gigahertz.

1 (2) MIXED USES PERMITTED TO BE COUNTED.--Among the
2 frequencies recommended under this section for reallocation,
3 the Secretary may include frequencies and frequency bands that
4 are to be partially retained for use by Federal Government
5 stations but that are also recommended to be reallocated under
6 the Act for use by non-Federal stations, except that--

7 (A) such mixed-use frequencies and frequency bands
8 may not count toward more than one-half of the 200
9 megahertz minimum required by paragraph (1);

10 (B) such mixed-use frequencies and frequency bands
11 may not be so counted unless the assignments of the
12 frequencies to Federal Government stations under section
13 305 of the Act (47 U.S.C. 305) are limited by geographic
14 area, by time, or by other means so as to guarantee that
15 the potential use to be made by such Federal Government
16 stations is substantially less (as measured by geographic
17 area, time, or otherwise) than the potential use to be
18 made by non-Federal stations; and

19 (C) the operational sharing permitted under this
20 paragraph shall be subject to coordination procedures
21 that the Commission and the Secretary shall jointly
22 establish and implement to ensure against harmful
23 interference.

24 (c) CONSIDERATION OF CRITERIA FOR IDENTIFICATION.--

1 (1) NEEDS OF THE FEDERAL GOVERNMENT.--In determining
2 whether a frequency meets the criteria specified in subsection
3 (a)(2), the Secretary shall--

4 (A) consider whether the frequency is used to
5 provide a communications service that is or could be made
6 available from a commercial carrier or other vendor;

7 (B) seek to promote--

8 (i) the maximum practicable reliance on
9 commercially available substitutes;

10 (ii) the sharing of frequencies (as permitted
11 under subsection (b)(2));

12 (iii) the development and use of new
13 communications technologies; and

14 (iv) the use of nonradiating communications
15 systems where practicable; and

16 (C) seek to avoid--

17 (i) serious degradation of Federal Government
18 services and operations;

19 (ii) excessive costs to the Federal Government
20 and users of Federal Government services; and

21 (iii) excessive disruption of existing use of
22 Federal Government frequencies by amateur radio
23 licensees.

1 (2) FEASIBILITY OF USE.--In determining whether a
2 frequency meets the criteria specified in subsection (a)(3),
3 the Secretary shall--

4 (A) assume that the frequency will be assigned by
5 the Commission under section 303 of the Act (47 U.S.C.
6 303) within 15 years;

7 (B) assume reasonable rates of scientific progress
8 and growth of demand for telecommunications services;

9 (C) seek to include frequencies which can be used to
10 stimulate the development of new technologies; and

11 (D) consider the immediate and recurring costs to
12 reestablish services displaced by the reallocation of
13 spectrum.

14 (3) COMMERCIAL USE.--In determining whether a frequency
15 meets the criteria specified in subsection (a)(4), the
16 Secretary shall consider--

17 (A) the extent to which equipment is available that
18 is capable of utilizing such frequency;

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

21 (C) the extent to which, in general, commercial
22 users could share the frequency with amateur radio
23 licensees; and

24 (D) the activities of foreign governments in making
25 frequencies available for experimentation or commercial

1 assignments in order to support their domestic
2 manufacturers of equipment.

3 (4) OTHER USES.--

4 (A) APPLICABILITY OF CRITERIA.--The criteria
5 specified by subsection (a) shall be deemed not to be met
6 for any purpose under this subtitle with regard to any
7 frequency assignment to, or any frequency assignment used
8 by, a Federal power agency for the purpose of withdrawing
9 that assignment.

10 (B) MIXED USE ELIGIBILITY.--The frequencies assigned
11 to any Federal power agency may only be eligible for
12 mixed use under subsection (b)(2) in geographically
13 separate areas, but in those cases where a frequency is
14 to be shared by an affected Federal power agency and a
15 non-Federal user, such use by the non-Federal user shall
16 not cause harmful interference to the affected Federal
17 power agency or adversely affect the reliability of its
18 power system.

19 (C) DEFINITION.--As used in this paragraph, the term
20 "Federal power agency" means the Tennessee Valley
21 Authority, the Bonneville Power Administration, the
22 Western Area Power Administration, or the Southwestern
23 Power Administration.

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

1 (1) REPORT IDENTIFYING 30 MEGAHERTZ FOR IMMEDIATE
2 REALLOCATION.--Within 6 months after the date of enactment of
3 this Act, the Secretary shall prepare and submit to the
4 President and the Congress a report that recommends for
5 immediate reallocation no less than 30 megahertz of
6 frequencies identified under subsection (a). None of the
7 frequencies covered by such report may be allocated for mixed
8 use as described in subsection (b)(2). Not less than one-half
9 of such frequencies shall be located below 3 gigahertz.

0 (2) PRELIMINARY REPORT ON OTHER REALLOCABLE
1 FREQUENCIES.--Within 6 months after the date of enactment of
2 this Act, the Secretary shall prepare, make publicly
3 available, and submit to the President and the Congress a
4 preliminary report that recommends for reallocation at least
5 170 megahertz of frequencies identified under subsection (a),
6 other than those recommended for immediate reallocation under
7 paragraph (1).

8 (3) PUBLIC COMMENT; CHANGES TO REPORT.--The Secretary
9 shall receive public comment on the preliminary report
10 required by paragraph (2) and shall, based upon the comments,
11 make such changes to the report as are warranted to meet the
12 objectives of this section.

13 (4) DIRECT DISCUSSIONS.--The Secretary shall encourage
14 and provide opportunity for direct discussions among
15 commercial representatives and Federal Government users of the

1 spectrum to aid the Secretary in determining which frequencies
2 to recommend for reallocation. The Secretary shall provide
3 notice to the public of any such discussions, including the
4 name or names of any businesses or other persons represented
5 in such discussions, and shall provide the public with an
6 opportunity to comment on the results of any such negotiations
7 prior to the submission of the final report required by
8 paragraph (5).

9 (5) FINAL REPORT ON OTHER REALLOCABLE
0 FREQUENCIES.--Within 18 months after the date of enactment of
1 this Act, the Secretary shall prepare and submit to the
2 President and the Congress a final report that recommends the
3 reallocation of at least 170 megahertz of frequencies as
4 described in paragraph (2). Not less than one-half of such
5 frequencies shall be located below 3 gigahertz.

6 (6) LIMITATION ON REALLOCATION.--None of the frequencies
7 recommended for reallocation in the reports required by this
8 subsection shall have been recommended, prior to the date of
9 enactment of this Act, for reallocation to non-Federal use by
0 international agreement.

1 (e) TIMETABLE FOR REALLOCATION AND LIMITATION.--The Secretary
2 shall, as part of the reports required by paragraphs (1) and (2) of
3 subsection (d), include a timetable that recommends dates by which
4 the President shall withdraw or limit assignments of the

1 frequencies specified in the reports. In setting the recommended
2 effective dates, the Secretary shall--

3 (1) consider the need to reallocate frequencies as early
4 as possible, taking into account the requirements of section
5 406;

6 (2) consider the useful remaining life of equipment that
7 has been purchased or contracted for purchase to operate on
8 identified frequencies;

9 (3) consider the need to coordinate frequency use with
10 other nations; and

11 (4) take into account the relationship between the costs
12 to the Federal Government of changing to different frequencies
13 and the benefits that may be obtained from commercial and
14 other non-Federal uses of the reassigned frequencies.

15 **SEC. 405. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO FEDERAL**
16 **GOVERNMENT STATIONS.**

17 (a) IN GENERAL.--The President shall--

18 (1) within 12 months after receipt of the report required
19 by section 404(d)(1), withdraw the assignment to a Federal
20 Government station of any frequency in the frequencies
21 recommended by that report for immediate reallocation;

22 (2) by the effective date recommended by the Secretary
23 under section 404(e) (except as provided in subsection (b)(4)
24 of this section), withdraw or limit the assignment to a
25 Federal Government station of any frequency which the report

1 required by section 404(d)(3) recommends be reallocated or
2 made available for mixed use on such recommended effective
3 date;

4 (3) assign or reassign other frequencies to Federal
5 Government stations as necessary to adjust to such withdrawal
6 or limitation of assignments; and

7 (4) transmit a notice and description to the Commission
8 and each House of Congress of the actions taken under this
9 subsection.

10 (b) EXCEPTIONS.--

11 (1) AUTHORITY TO SUBSTITUTE.--If the President determines
12 that a circumstance described in paragraph (2) exists, the
13 President--

14 (A) may substitute an alternative frequency for the
15 frequency that is subject to such determination and
16 withdraw (or limit) the assignment of that alternative
17 frequency in the manner required by subsection (a); and

18 (B) shall submit a statement of the reasons for
19 taking the action described in subparagraph (A) to the
20 Committee on Energy and Commerce of the House of
21 Representatives and the Committee on Commerce, Science,
22 and Transportation of the Senate.

23 (2) GROUNDS FOR SUBSTITUTION.--Each of the following
24 subparagraphs describes a circumstance referred to in
25 paragraph (1):

1 (A) The reassignment would seriously jeopardize the
2 national defense interests of the United States.

3 (B) The frequency proposed for reassignment is
4 uniquely suited to meeting important governmental needs.

5 (C) The reassignment would seriously jeopardize
6 public health or safety.

7 (D) The reassignment will result in costs to the
8 Federal Government that are excessive in relation to the
9 benefits that may be obtained from commercial or other
10 non-Federal uses of the reassigned frequency.

11 (E) The reassignment will disrupt the existing use
12 of a Federal Government band of frequencies by amateur
13 radio licensees.

14 (3) CRITERIA FOR SUBSTITUTED FREQUENCIES.--For purposes
15 of paragraph (1), a frequency may not be substituted for a
16 frequency identified and recommended under section 404 for
17 reallocation, unless the substituted frequency also meets each
18 of the criteria specified by section 404(a).

19 (4) DELAYS IN IMPLEMENTATION.--If the President
20 determines that any action cannot be completed by the
21 effective date recommended by the Secretary pursuant to
22 section 404(e), or that such an action by such date would
23 result in a frequency being unused as a consequence of the
24 Commission's plan under section 406(b), the President may--

1 (A) withdraw or limit the assignment to Federal
2 Government stations on a later date that is consistent
3 with such plan, except that the President shall notify
4 each Committee specified in paragraph (1)(B) and the
5 Commission of the reason that withdrawal or limitation at
6 a later date is required; or

7 (B) substitute alternative frequencies pursuant to
8 this subsection.

9 (c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE FEDERAL
10 GOVERNMENT.--

11 (1) REIMBURSEMENT AUTHORIZED.--Any Federal agency, or
12 non-Federal entity operating on behalf of a Federal agency,
13 whose operation is displaced from a frequency pursuant to this
14 section may be reimbursed, from revenues received pursuant to
15 section 408, not more than the incremental costs such agency
16 or entity incurs (in such amounts as are provided in advance
17 in an appropriations Act) that are directly attributable to
18 the displacement from the frequency. The estimates of these
19 costs shall be prepared by the affected agency, in
20 consultation with the Department of Commerce.

21 (2) AUTHORIZATION OF APPROPRIATIONS.--There are
22 authorized to be appropriated to the affected Federal agencies
23 such sums as may be necessary to carry out the purposes of
24 this subsection.

25 (d) EXISTING AUTHORITY RETAINED.--

1 (1) ADDITIONAL REALLOCATION.--Nothing in this subtitle
2 prevents or limits additional reallocation of spectrum from
3 the Federal Government to the commercial or other sectors.

4 (2) IMPLEMENTATION OF NEW TECHNOLOGIES AND SERVICES.--
5 Notwithstanding any other provision of this subtitle--

6 (A) the Secretary may at any time allow frequencies
7 allocated on a primary basis for Federal Government use
8 to be used by non-Federal licensees on a mixed-use basis
9 for the purpose of facilitating the prompt implementation
10 of new technologies or services; and

11 (B) the Commission shall expedite and give priority
12 to the allocation of any frequencies identified pursuant
13 to subparagraph (A), and any associated licensing.

14 **SEC. 406. ALLOCATION AND ASSIGNMENT OF FREQUENCIES BY THE**
15 **COMMISSION.**

16 (a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY AVAILABLE
17 FREQUENCIES.--With respect to the frequencies made available for
18 immediate reallocation pursuant to section 405(a)(1), the
19 Commission, not later than 18 months after the date of enactment of
20 this Act, shall issue rules to allocate such frequencies and shall
21 propose rules to assign such frequencies.

22 (b) ALLOCATION AND ASSIGNMENT OF REMAINING AVAILABLE
23 FREQUENCIES.--With respect to the frequencies made available for
24 reallocation pursuant to section 405(a)(2), the Commission shall,
25 not later than 1 year after receipt of the final report identified

1 in section 404(d)(4), prepare, in consultation with the Assistant
2 Secretary of Commerce for Communications and Information, submit to
3 the President and the Congress, and implement, a plan for the
4 allocation and assignment under the Act of such frequencies. Such
5 plan shall--

6 (1) not propose the immediate allocation and assignment
7 of all such frequencies but, taking into account the timetable
8 recommended by the Secretary pursuant to section 404(e), shall
9 propose--

10 (A) gradually to allocate and assign the frequencies
11 remaining, after making the reservation required by
12 subparagraph (B), over the course of 10 years beginning
13 on the date of submission of such plan; and

14 (B) to reserve a significant portion of such
15 frequencies for distribution beginning after the end of
16 such 10-year period;

17 (2) contain appropriate provisions to ensure the
18 availability of frequencies for (A) new technologies and
19 services in accordance with the policies of section 7 of the
20 Act (47 U.S.C. 157) and (B) the safety of life and property in
21 accordance with the policies of section 1 of the Act (47
22 U.S.C. 151);

23 (3) address (A) the feasibility of reallocating portions
24 of the spectrum from current commercial and other non-Federal
25 uses to provide for more efficient use of the spectrum, and

1 (B) innovation and marketplace developments that may affect
2 the relative efficiencies of different spectrum allocations;

3 (4) not prevent the Commission from allocating
4 frequencies, and assigning licenses to use frequencies, not
5 included in the plan; and

6 (5) not preclude the Commission from making changes to
7 the plan in future proceedings.

8 (c) AMENDMENT TO THE ACT.--Section 303 of the Act (47 U.S.C.
9 303) is amended by adding at the end the following new subsection:

0 "(v) Have authority to assign licenses to use the frequencies
1 reallocated from United States Government use to non-United States
2 Government use pursuant to the Emerging Telecommunications
3 Technologies Act of 1993; except that any such assignment shall be
4 made expressly subject to the right of the President to reclaim
5 such frequencies under section 7 of such Act."

6 **SEC. 407. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.**

7 (a) AUTHORITY OF PRESIDENT.--Subsequent to the withdrawal of
8 assignment to Federal Government stations pursuant to section 405,
9 the President may reclaim reassigned frequencies for reassignment
0 to Federal Government stations in accordance with this section.

1 (b) PROCEDURE FOR RECLAIMING FREQUENCIES.--

2 (1) UNALLOCATED FREQUENCIES.--If the frequencies to be
3 reclaimed have not been allocated or assigned by the
4 Commission pursuant to the Act, the President shall follow the

1 procedures for substitution of frequencies established by
2 section 405(b) of this subtitle.

3 (2) ALLOCATED FREQUENCIES.--If the frequencies to be
4 reclaimed have been allocated or assigned by the Commission,
5 the President shall follow the procedures for substitution of
6 frequencies established by section 405(b) of this subtitle,
7 except that the notification required by section 405(b) (1) (B)
8 shall include--

9 (A) a timetable to accommodate an orderly transition
10 for displaced licensees to obtain new frequencies and
11 equipment necessary for its utilization; and

12 (B) an estimate of the cost of displacing spectrum
13 uses licensed by the Commission.

14 (c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS
15 AUTHORIZED.--The Federal Government shall bear all costs of
16 reclaiming frequencies pursuant to this section, including the cost
17 of equipment which is rendered unusable, the cost of relocating
18 operations to a different frequency, and any other costs that are
19 directly attributable to the reclaiming of the frequency pursuant
20 to this section. There are authorized to be appropriated such sums
21 as may be necessary to carry out the purposes of this section.

22 (d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.--The Commission
23 shall not withdraw licenses for any reclaimed frequencies until the
24 end of the fiscal year following the fiscal year in which the
25 President's notification is received.

1 (e) EFFECT ON OTHER LAW.--Nothing in this section shall be
2 construed to limit or otherwise affect the authority of the
3 President under section 706 of the Act (47 U.S.C. 606).

4 **SEC. 408. COMPETITIVE BIDDING.**

5 (a) COMPETITIVE BIDDING.--

6 (1) IN GENERAL.--

7 (A) FIVE-YEAR AUTHORIZATION.--The Commission shall,
8 during fiscal years 1994 through 1998, use the
9 competitive bidding process authorized under the
10 amendment made by subsection (b) to grant all radio
11 spectrum licenses for which two or more mutually
12 exclusive applications have been filed, including the 200
13 megahertz of spectrum made available to the Commission
14 under this subtitle, and including the licenses issued
15 for a personal communications service established
16 pursuant to the proceeding entitled "Amendment to the
17 Commission's Rules to Establish New Personal
18 Communications Services", or any successor proceeding,
19 except for those licenses identified in subparagraphs (A)
20 through (E) of section 309(j)(4) of the Act and those
21 licenses that the Commission determines should in the
22 public interest be issued by comparative hearing under
23 section 309(a) through (f) of the Act. To the extent
24 possible, and consistent with the purposes of this
25 subtitle, the Commission shall seek to ensure that

1 revenues received pursuant to the competitive bidding
2 process are received before the end of fiscal year 1998.

3 (B) EXPIRATION OF REQUIREMENTS.--The requirements of
4 subparagraph (A) shall expire either (i) upon a
5 determination by the Secretary of the Treasury that
6 competitive bidding has resulted in or is reasonably
7 expected to result in the receipt of \$7,200,000,000 by
8 the end of fiscal year 1998, or (ii) at the end of fiscal
9 year 1998, whichever is earlier.

10 (C) REPORT TO PRESIDENT AND CONGRESS.--The
11 Commission shall prepare, in consultation with the
12 Assistant Secretary of Commerce for Communications and
13 Information, and submit to the President and the
14 Congress, not later than March 31, 1997, and March 31,
15 1999, reports on the use of competitive bidding under
16 subparagraph (A). Such reports shall examine, in addition
17 to any other matters deemed appropriate by the
18 Commission, whether and to what extent--

19 (i) competitive bidding significantly improved
20 the efficiency and effectiveness of the process for
21 granting radio spectrum licenses;

22 (ii) competitive bidding facilitated the
23 introduction of new spectrum-based technologies and
24 the entry of new companies into the
25 telecommunications market;

1 (iii) the needs of rural spectrum users were
2 adequately addressed in the competitive bidding
3 process;

4 (iv) small businesses and minority-owned
5 businesses were able to participate successfully in
6 the competitive bidding process; and

7 (v) statutory changes are needed to improve
8 the competitive bidding process.

9 (2) RETENTION OF REVENUES.--Notwithstanding paragraph (6)
10 of section 309(j) of the Act, as added by this subtitle, the
11 salaries and expenses account of the Commission shall retain
12 as an offsetting collection such sums as may be necessary from
13 the receipts received pursuant to such section for the costs
14 of developing and implementing the program required by
15 subsection (a)(1)(A). Such offsetting collections shall be
16 available for obligation subject to the terms and conditions
17 of the receiving appropriations account, and shall be
18 deposited in such accounts on a quarterly basis. Any funds
19 appropriated to the Commission for fiscal years 1994 through
20 1998 for the purpose of assigning licenses using random
21 selection under section 309(i) of the Act shall be used by the
22 Commission to implement section 309(j) of the Act.

23 (b) COMPETITIVE BIDDING AUTHORIZATION.--Section 309 of the Act
24 (47 U.S.C. 309) is amended by adding at the end the following new
25 subsection:

1 "(j)(1) Subject to the exemptions and conditions set forth in
2 the other provisions of this subsection, if there are two or more
3 mutually exclusive applications for any construction permit or
4 initial license which will involve any use of the electromagnetic
5 spectrum, the Commission shall have authority to use competitive
6 bidding in the granting of such construction permit or initial
7 license.

8 "(2)(A) The Commission shall, within 6 months after the date
9 of enactment of the Emerging Telecommunications Technologies Act of
0 1993 and following public notice and comment proceedings, issue
1 rules establishing competitive bidding procedures under this
2 subsection. Such rules shall include safeguards to protect the
3 public interest in the use of the spectrum and shall ensure the
4 opportunity for successful participation by small businesses and
5 minority-owned businesses.

6 "(B)(i) In the rules issued pursuant to subparagraph (A), the
7 Commission shall require potential bidders to file a first-stage
8 application indicating an intent to participate in the competitive
9 bidding process and containing such other information as the
0 Commission finds necessary. After conducting the bidding, the
1 Commission shall require the winning bidder to file a second-stage
2 application. After determining that such application is acceptable
3 for filing and that the winning bidder is qualified as described in
4 clause (ii), the Commission shall grant the permit or license to
5 the winning bidder.

1 "(ii) No permit or license shall be granted to a winning
2 bidder pursuant to clause (i) unless the Commission determines that
3 such winning bidder is qualified pursuant to section 308(b) and
4 subsection (a) of this section, on the basis of the information
5 contained in the first-stage and second-stage applications
6 submitted pursuant to clause (i).

7 "(iii) Each participant in the competitive bidding process
8 shall be subject to the schedule of charges contained in section 8.

9 "(C) In the rules issued pursuant to subparagraph (A), the
0 Commission, in addition to other actions it finds necessary to
1 implement competitive bidding fairly and effectively, shall--

2 " (i) establish the method of bidding (including but not
3 limited to sealed bids) and the basis for payment (such as
4 installment or lump sum payments, royalties on future income,
5 a combination thereof, or other reasonable forms of payment
6 specified by the Commission); and

7 " (ii) establish other appropriate conditions on such
8 permits and licenses that serve the public interest.

9 "(3) (A) (i) If the Commission decides to use competitive
0 bidding to grant two or more national, regional, or local licenses
1 per market in a terrestrial service that will compete with
2 telephone exchange service provided by a qualified common carrier,
3 the Commission shall designate one such license per market as a
4 rural program license.

1 "(ii) The Commission shall define the geographic boundaries of
2 the rural program license to correspond to the geographic area of
3 the telephone exchange service by which the qualified common
4 carrier became eligible for the rural program license under
5 subparagraph (E)(ii).

6 "(B)(i) Except as provided in subparagraph (D), the Commission
7 shall either grant a rural program license to the qualified common
8 carrier providing telephone exchange service in the area covered by
9 such license, or grant a license to a consortium of such qualified
0 carriers.

1 "(ii) No qualified common carrier that receives a rural
2 program license shall be eligible to--

3 "(I) receive any other license to provide the same
4 service in such area; or

5 "(II) own any equity interest in, become a creditor of,
6 or otherwise become affiliated with any entity that holds a
7 license to provide the same service in such area.

8 "(iii) Any qualified common carrier that receives a rural
9 program license shall (I) provide to all other licensees providing
0 the same service in such area the same quality of access to its
1 wire network that it provides itself, and (II) shall interconnect
2 its wireless service with the wireless service provided by another
3 licensee providing the same service on the same frequency in a
4 different geographic area. Such other licensee shall provide an

1 equivalent interconnection with the wireless service of such rural
2 program licensee.

3 "(iv) The Commission may establish other rules or conditions
4 for the award of a rural program license, consistent with the
5 intent of this paragraph.

6 "(C)(i) Upon the grant of a rural program license to a
7 qualified common carrier, such carrier shall pay a fee (in lump sum
8 or installment payments, in royalties on future income, in a
9 combination thereof, or on any other reasonable basis specified by
10 the Commission) equal to the value of such license. The value of
11 such license shall be the average of the amounts paid by persons
12 granted licenses through competitive bidding to provide the same
13 service in such area, except that the Commission shall determine
14 the value of such license by any reasonable means when the
15 geographic area served by the rural program license is not
16 congruent with the geographic area served by the other license or
17 licenses. The Commission shall ensure that the total amount paid by
18 qualified common carriers for all the licenses issued to them under
19 the rural program shall equal the total value, as determined under
20 clause (ii), of such licenses.

21 "(ii) The Commission shall determine the total value of the
22 licenses issued under the rural program to qualified common
23 carriers by first adding the amounts paid for the licenses not
24 subject to the rural program, and dividing that sum by the number
25 of licenses per market that are not subject to the rural program.

1 The Commission shall then subtract from the amount found in the
2 previous calculation the total amount paid for the licenses issued
3 for the non-rural areas under bidding subject to the rural program
4 and the total amount paid for licenses issued pursuant to
5 subparagraph (D). The amount remaining shall be the total value of
6 all the licenses issued under the rural program to qualified common
7 carriers.

8 "(D) If no qualified common carrier applies for a rural
9 program license in a particular market and the Commission awards
10 the non-rural program licenses through competitive bidding, the
11 rural program shall not apply for that particular market and the
12 Commission shall use competitive bidding to award the licenses for
13 the former rural program areas, either separately or as part of
14 larger license areas.

15 "(E) For purposes of this paragraph--

16 "(i) the term 'rural area' means any geographic area that
17 does not include either--

18 "(I) any incorporated place of 10,000 inhabitants or
19 more, or any part thereof; or

20 "(II) any territory, incorporated or unincorporated,
21 included in an urbanized area (as defined by the Bureau
22 of the Census as of the date of enactment of the Emerging
23 Telecommunications Technologies Act of 1993); and

24 "(ii) the term 'qualified common carrier' means a common
25 carrier that--

1 "(I) either provides telephone exchange service by
2 wire in a rural area, provides telephone exchange service
3 by wire to less than 10,000 subscribers, or is a
4 telephone utility whose income accrues to a State or
5 political subdivision thereof; and

6 "(II) submits an application for a rural program
7 license that meets the standards established by the
8 Commission to determine ability to provide the service
9 covered by the license.

10 "(F) The provisions of subparagraph (A)(ii) do not limit
11 the Commission's discretion to determine, for licenses issued
12 other than under this paragraph, the size of any market area
13 or the number of licensees for any service.

14 "(4) The competitive bidding authority provided to the
15 Commission in paragraph (1) shall not--

16 "(A) because of the need to avoid excessive service
17 disruption, extend to license renewals and modifications;

18 "(B) because of the essential services they provide,
19 extend to licenses reserved for the United States Government
20 and State or local government entities;

21 "(C) because of their public service obligations, extend
22 to licenses to provide amateur operator services, over-the-air
23 terrestrial radio and television broadcast services, public
24 safety services, and radio astronomy services;

1 "(D) because they do not involve mutually exclusive
2 applications, extend to private radio end-user licenses,
3 including Specialized Mobile Radio Service (SMRS), maritime,
4 and aeronautical end-user licenses;

5 "(E) because of the need to avoid excessive service
6 disruption, extend to any license grant to a non-Federal
7 licensee being moved from its current frequency assignment to
8 a different one by the Commission in order to make spectrum
9 available for new technologies; and

10 "(F) extend to any other service, class of services, or
11 assignments that the Commission determines, after conducting
12 public notice and comment proceedings, should be exempt from
13 competitive bidding because of public interest factors
14 warranting an exemption to the extent the Commission
15 determines the use of competitive bidding would jeopardize
16 appropriate treatment of those factors.

17 "(5) No provision of this subsection or of the Emerging
18 Telecommunications Technologies Act of 1993 shall be construed, in
19 any way, to--

20 "(A) alter spectrum allocation criteria and procedures
21 established by the other provisions of this Act;

22 "(B) allow the Commission to consider potential revenues
23 from competitive bidding when making decisions concerning
24 spectrum allocation;

1 "(C) diminish the authority of the Commission under the
2 other provisions of this Act to regulate or reclaim spectrum
3 licenses;

4 "(D) grant any right to a spectrum licensee different
5 from the rights awarded to licensees who obtained their
6 license through assignment methods other than competitive
7 bidding; or

8 "(E) prevent the Commission from awarding licenses to
9 those persons who make significant contributions to the
10 development of a new telecommunications service or technology.

11 "(6) Moneys received from competitive bidding pursuant to this
12 subsection shall be deposited in the general fund of the
13 Treasury."

14 (c) STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.--
15 Title VII of the Act (47 U.S.C. 601 et seq.) is amended by adding
16 at the end the following new section:

17 **"SEC. 714. STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.**

18 "A license or permit issued by the Commission under this Act
19 shall not be treated as the property of the licensee for property
20 tax purposes, or other similar tax purposes, by any State or local
21 government entity."

22 **SEC. 409. REGULATORY PARITY.**

23 (a) AMENDMENT.--Section 332 of the Act (47 U.S.C. 332) is
24 amended--

1 (1) by striking "PRIVATE LAND" from the heading of the
2 section; and

3 (2) by amending subsection (c) to read as follows:

4 "(c)(1)(A) A person engaged in the provision of commercial
5 mobile services shall, insofar as such person is so engaged, be
6 treated as a common carrier for purposes of this Act, except that
7 the Commission may waive the requirements of sections 203, 204,
8 205, and 214, and the 30-day notice provision of section 309(a),
9 for commercial mobile services and such other provisions of title
10 II as the Commission may, consistent with the public interest,
11 specify by rule. In prescribing any such rule, the Commission may
12 not waive for commercial mobile services the requirements of
13 section 201, 202, 206, 208, 209, 215(c), 216, 217, 220(d) or (e),
14 223, 225, 226(a), (b), (c), (d), (e), (f), (g), or (i), 227, or
15 228, or any other provision that is necessary in order to ensure
16 that the charges, practices, classifications, or regulations for or
17 in connection with commercial mobile services are just and
18 reasonable and are not unjustly or unreasonably discriminatory or
19 that is otherwise in the public interest.

20 "(B) Upon reasonable request of any person providing
21 commercial mobile service, the Commission shall order a common
22 carrier to establish physical connections with such service
23 pursuant to section 201. Except to the extent that the Commission
24 is required to respond to such a request, this subparagraph shall

1 not be construed as a limitation or expansion of the Commission's
2 authority to order interconnection under this Act.

3 "(2) A person engaged in private land mobile service shall
4 not, insofar as such person is so engaged, be treated as a common
5 carrier for any purpose under this Act. A common carrier shall not
6 provide any dispatch service on any frequency allocated for common
7 carrier service, except to the extent that such dispatch service is
8 provided on stations licensed by the Commission in the Specialized
9 Mobile Radio Service prior to May 24, 1993, or is provided on
10 stations licensed in the domestic public land mobile radio service
11 before January 1, 1982. The Commission may by regulation
12 terminate, in whole or in part, the prohibition contained in the
13 preceding sentence if the Commission determines that such
14 termination will serve the public interest.

15 "(3) (A) Notwithstanding sections 2(b) and 221(b), no State or
16 local government shall have any authority to regulate the entry of
17 or the rates charged by any commercial mobile service or any
18 private land mobile service, except that this paragraph shall not
19 prohibit a State from regulating the other terms and conditions of
20 commercial mobile services. Nothing in this subparagraph shall
21 exempt providers of commercial mobile services (where such services
22 are a substitute for land line telephone exchange service for a
23 substantial portion of the communications within such State) from
24 requirements imposed by a State commission on all providers of

1 telecommunications services necessary to ensure the continued
2 availability of telephone exchange service at affordable rates.

3 "(B) Notwithstanding subparagraph (A), a State may petition
4 the Commission for authority to regulate the rates for any
5 commercial mobile service if such State demonstrates that (i) such
6 service is a substitute for land line telephone exchange service
7 for a substantial portion of the communications within such State,
8 or (ii) market conditions with respect to such services fail to
9 protect subscribers adequately from unjust and unreasonable rates
10 or rates that are unjustly or unreasonably discriminatory. The
11 Commission shall provide reasonable opportunity for public comment
12 in response to such petition, and shall, within 9 months after the
13 date of its submission, grant or deny such petition. If the
14 Commission grants such petition, the Commission shall authorize the
15 State to exercise under State law such authority over rates, for
16 such periods of time, as the Commission deems necessary to ensure
17 that such rates are just and reasonable and not unjustly or
18 unreasonably discriminatory.

19 "(C) If a State has in effect on June 1, 1993, any regulation
20 concerning the rates for any commercial mobile service, such State
21 may, no later than 1 year after the date of enactment of the
22 Emerging Telecommunications Technologies Act of 1993, petition the
23 Commission requesting that the State be authorized to continue
24 exercising authority over such rates. The State's existing
25 regulation shall, notwithstanding subparagraph (A), remain in

1 effect until the Commission issues a final order granting or
2 denying such petition. The Commission shall review such petition
3 in accordance with the procedures and schedule established in
4 subparagraph (B), and shall grant such petition if the State
5 satisfies the showing required under subparagraph (B)(i) or
6 (B)(ii). If the Commission grants such petition, the Commission
7 shall authorize the State to exercise under State law such
8 authority over rates, for such period of time, as the Commission
9 deems necessary to ensure that such rates are just and reasonable
10 and not unjustly or unreasonably discriminatory.

11 "(D) After a reasonable period of time, as determined by the
12 Commission, has elapsed from the issuance of an order under
13 subparagraph (B) or (C), any interested party may petition the
14 Commission for an order that the exercise of authority by a State
15 pursuant to such subparagraph is no longer necessary to ensure that
16 the rates for commercial mobile services are just and reasonable
17 and not unjustly or unreasonably discriminatory. The Commission
18 shall provide reasonable opportunity for public comment in response
19 to such petition, and shall, within 9 months after the date of its
20 submission, grant or deny such petition in whole or in part.

21 "(4) Nothing in this subsection shall be construed to alter or
22 affect the regulatory treatment required by title IV of the
23 Communications Satellite Act of 1962 of the corporation authorized
24 by title III of such Act.

1 "(5) The Commission shall continue to determine whether the
2 provision of space segment capacity by satellite systems to
3 providers of commercial mobile services shall be treated as common
4 carriage.

5 "(6) The provisions of section 310(b) shall not apply to any
6 lawful foreign ownership in a provider of commercial mobile
7 services prior to May 24, 1993, if that provider was not regulated
8 as a common carrier prior to the date of enactment of the Emerging
9 Telecommunications Technologies Act of 1993 and is deemed to be a
10 common carrier under this Act.

11 "(7) For purposes of this section--

12 "(A) the term 'commercial mobile service' means any
13 mobile service (as defined in section 3(n)) that, as specified
14 by regulation by the Commission, is provided for profit and
15 makes interconnected service available (i) to the public or
16 (ii) to such broad classes of eligible users as to be
17 effectively available to a substantial portion of the public;

18 "(B) the term 'interconnected service' means service that
19 is interconnected with the public switched network (as such
20 term is defined by regulation by the Commission) or service
21 for which interconnection pursuant to paragraph (1)(B) is
22 pending; and

23 "(C) the term 'private land mobile service' means any
24 mobile service (as defined in section 3(n)) that is not a
25 commercial mobile service under subparagraph (A)."

1 (b) CONFORMING AMENDMENTS.--

2 (1) DEFINITION OF MOBILE SERVICE.--Section 3 of the Act
3 (47 U.S.C. 153) is amended--

4 (A) in subsection (n)--

5 (i) by inserting "(1)" immediately after "and
6 includes"; and

7 (ii) by inserting immediately before the
8 period at the end the following: ", (2) a mobile
9 service which provides a regularly interacting
10 group of base, mobile, portable, and associated
11 control and relay stations (whether licensed on an
12 individual, cooperative, or multiple basis) for
13 private one-way or two-way land mobile radio
14 communications by eligible users over designated
15 areas of operation, and (3) any service for which a
16 license is required in a personal communications
17 service established pursuant to the proceeding
18 entitled 'Amendment to the Commission's Rules to
19 Establish New Personal Communications Services'
20 (GEN Docket No. 90-314; ET Docket No. 92-100), or
21 any successor proceeding; but such term does not
22 include any rural radio service as defined by the
23 Commission and does not include the provision, by a
24 local exchange carrier, of telephone exchange
25 service by radio instead of by wire"; and

1 (B) by striking subsection (gg).

2 (2) REGULATION OF INTRASTATE COMMUNICATIONS.--Section
3 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting
4 "and section 332" immediately after "inclusive,".

5 (c) RULEMAKING SCHEDULE; EFFECTIVE DATE.--

6 (1) RULEMAKING REQUIRED.--Within 1 year after the date of
7 enactment of this Act, the Commission shall--

8 (A) issue such modifications or terminations of its
9 regulations as are necessary to implement the amendments
10 made by subsection (a);

11 (B) make such other modifications of such
12 regulations as may be necessary to promote parity in the
13 regulatory treatment of providers of all commercial
14 mobile services that offer services that are
15 substantially similar; and

16 (C) include in such modifications and terminations
17 such provisions as are necessary to provide for an
18 orderly transition to the regulatory treatment required
19 by such amendments.

20 (2) EFFECTIVE DATE.--The amendments made by subsection
21 (a) shall be effective 1 year after such date of enactment,
22 except that--

23 (A) section 332(c)(1)(A) of the Act, as added by
24 such amendments, shall take effect upon such date of
25 enactment; and

1 (B) any person that provides private land mobile
2 services before such date of enactment shall continue to
3 be treated as a provider of private land mobile service
4 until 3 years after such date of enactment.

5 **SEC. 410. DEADLINES FOR PCS ORDERS AND LICENSING.**

6 The Commission shall--

7 (1) within 180 days after the date of enactment of this
8 Act, issue a final report and order (A) in the matter entitled
9 "Redevelopment of Spectrum to Encourage Innovation in the Use
10 of New Telecommunications Technologies" (ET Docket No. 92-9);
11 and (B) in the matter entitled "Amendment of the Commission's
12 Rules to Establish New Personal Communications Services" (GEN
13 Docket No. 90-314; ET Docket No. 92-100); and

14 (2) within 270 days after such date of enactment,
15 commence issuing licenses and permits in the personal
16 communications service.

17 **SEC. 411. DEFINITIONS.**

18 As used in this subtitle:

19 (1) The term "allocation" means an entry in the National
20 Table of Frequency Allocations of a given frequency band for
21 the purpose of its use by one or more radiocommunication
22 services.

23 (2) The term "assignment" means an authorization given to
24 a station licensee to use specific frequencies or channels in
25 a particular geographic area.

1 (3) The term "commercial carrier" means any entity that
2 uses a facility licensed by the Federal Communications
3 Commission pursuant to the Communications Act of 1934 for hire
4 or for its own use, but does not include Federal Government
5 stations licensed pursuant to section 305 of the Act (47
6 U.S.C. 305).

7 (4) The term "Commission" means the Federal
8 Communications Commission.

9 (5) The term "Secretary" means the Secretary of Commerce.

10 (6) The term "the Act" means the Communications Act of
11 1934 (47 U.S.C. 151 et seq.).

12 Subtitle B--Vessel Tonnage Duties

13 SEC. 451. EXTENSION OF VESSEL TONNAGE DUTIES.

14 (a) EXTENSION OF DUTIES.--Section 36 of the Act of August 5,
15 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended--

16 (1) by striking "and 1995," each place it appears and
17 inserting in lieu thereof "1995, 1996, 1997, and 1998,";

18 (2) by striking "place," and inserting in lieu thereof
19 "place;"; and

20 (3) by striking "port, not, however, to include vessels
21 in distress or not engaged in trade" and inserting in lieu
22 thereof "port. However, neither duty shall be imposed on
23 vessels in distress or not engaged in trade".

1 (b) CONFORMING AMENDMENT.--The Act of March 8, 1910 (36 Stat.
2 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and
3 inserting in lieu thereof "1995, 1996, 1997, and 1998,".

4 (c) TECHNICAL CORRECTION.--

5 (1) CORRECTION.--Section 10402(a) of the Omnibus Budget
6 Reconciliation Act of 1990 (104 Stat. 1388-398) is amended by
7 striking "in the second paragraph".

8 (2) EFFECTIVE DATE.--The amendment made by paragraph (1)
9 shall be effective on and after November 5, 1990.