

(i) all relevant information to be considered for filing with FCC; and

(ii) any significant regulatory actions to be taken by the agency pursuant to its statutory authorities directly relating to spectrum issues, prior to its submission to OIRA as required by Executive Order 12866.

(c) Agencies shall collaborate with NTIA to facilitate long-term spectrum planning, including by sharing information about their current spectrum use and long-term spectrum needs as requested by NTIA.

(d) Agencies shall coordinate with NTIA prior to carrying out any electromagnetic compatibility study or testing plan that the agency seeks to be considered in formulating the views of the executive branch regarding spectrum regulatory matters. Coordination with NTIA will ensure the use of consistent methods across the executive branch, promoting reliable findings as well as evidence-based decision-making. Nothing herein is intended to prevent agencies from conducting spectrum-related studies for internal purposes unrelated to formulating executive branch views on spectrum regulatory matters. Agencies are strongly encouraged to conduct spectrum-related testing and research in cooperation with NTIA's Institute for Telecommunication Sciences.

(e) Agencies shall favor the development and procurement of systems that enable coexistence with other spectrum users. Accordingly, agencies shall ensure that their acquisition processes properly consider spectrum coexistence and access prior to milestone investment decisions. The NTIA shall, in turn, improve its criteria and processes for certification regarding spectrum availability to facilitate spectrum access.

SEC. 8. *Spectrum Management Principles and Methods.* By May 14, 2025, the Secretary of Commerce, working in partnership with the Council, shall publish a report identifying spectrum management principles and methods that will guide the Federal Government in spectrum studies and science. The report shall identify the coordination guidelines for spectrum studies and identify processes for determining types of studies, criteria, assumptions, and timelines that will be acceptable in decision-making involving the use of Federal spectrum and the use of non-Federal spectrum by agencies.

SEC. 9. *Revocation.* The Presidential Memorandum of October 25, 2018 (Developing a Sustainable Spectrum Strategy for America's Future) [formerly set out above], is hereby revoked.

SEC. 10. *Protection of Information.* Nothing in this memorandum shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

SEC. 11. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Commerce is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§ 902. Establishment; assigned functions

(a) Establishment

(1) Administration

There shall be within the Department of Commerce an administration to be known as

the National Telecommunications and Information Administration.

(2) Head of administration

The head of the NTIA shall be an Assistant Secretary of Commerce for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Assigned functions

(1) In general

Subject to section 904(d) of this title, the Secretary shall assign to the Assistant Secretary and the NTIA responsibility for the performance of the Secretary's communications and information functions.

(2) Communications and information functions

Subject to section 904(d) of this title, the functions to be assigned by the Secretary under paragraph (1) include (but are not limited to) the following functions transferred to the Secretary by Reorganization Plan Number 1 of 1977 and Executive Order 12046:

(A) The authority delegated by the President to the Secretary to assign frequencies to radio stations or classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, but not including the authority to make final disposition of appeals from frequency assignments.

(B) The authority to authorize a foreign government to construct and operate a radio station at the seat of Government of the United States, but only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Commission.

(C) Functions relating to the communications satellite system, including authority vested in the President by section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)) and delegated to the Secretary under Executive Order 12046, to—

(i) aid in the planning and development of the commercial communications satellite system and the execution of a national program for the operation of such a system;

(ii) conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation;

(iii) coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to ensure that there is full and effective compliance at all times with the policies set forth in the Communications Satellite Act of 1962 [47 U.S.C. 701 et seq.];

(iv) make recommendations to the President and others as appropriate, with respect to steps necessary to ensure the availability and appropriate utilization of the communications satellite system for general governmental purposes in consonance with section 201(a)(6) of the Com-

munications Satellite Act of 1962 (47 U.S.C. 721(a)(6));¹

(v) help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad;

(vi) assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)), make necessary recommendations to the President in connection therewith, and keep the President informed with respect to the carrying out of the Communications Satellite Act of 1962 [47 U.S.C. 701 et seq.]; and

(vii) serve as the chief point of liaison between the President and the Corporation.

(D) The authority to serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(E) The authority to advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

(F) The authority to conduct studies and evaluations concerning telecommunications research and development and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and advising agencies of the results of such studies and evaluations.

(G) Functions which involve—

(i) developing and setting forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations;

(ii) coordinating economic, technical, operational, and related preparations for United States participation in international telecommunications conferences and negotiations; and

(iii) providing advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States in support of the Secretary of State's responsibility for the conduct of foreign affairs.

(H) The authority to provide for the coordination of the telecommunications activities of the executive branch and assist in the formulation of policies and standards for those activities, including (but not limited to) considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

(I) The authority to develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(J) The responsibility to ensure that the views of the executive branch on telecommunications matters are effectively presented to the Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

(K) The authority to establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States.

(L) Functions which involve—

(i) developing, in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources;

(ii) performing analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary for the performance of assigned functions for the management of electromagnetic spectrum resources;

(iii) conducting research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility; and

(iv) conducting research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

(M) The authority to conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

(N) The authority to coordinate Federal telecommunications assistance to State and local governments.

(O) The authority to conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned functions.

(P) The authority to contract for studies and reports relating to any aspect of assigned functions.

(Q) The authority to participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

(R) The authority to participate with the National Security Council and the Director of the Office of Science and Technology Policy as they carry out their responsibilities under sections 4-1, 4-2, and 4-3 of Executive Order 12046, with respect to emergency functions, the national communication system, and telecommunications planning functions.

(S) The authority to establish coordinating committees pursuant to section 10 of Executive Order 11556.

¹ See References in Text note below.

(T) The authority to establish, as permitted by law, such interagency committees and working groups composed of representatives of interested agencies and consulting with such departments and agencies as may be necessary for the effective performance of assigned functions.

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

(3) Additional communications and information functions

In addition to the functions described in paragraph (2), the Secretary under paragraph (1)—

(A) may assign to the NTIA the performance of functions under section 504(a) of the Communications Satellite Act of 1962 (47 U.S.C. 753(a));

(B) shall assign to the NTIA the administration of the Public Telecommunications Facilities Program under sections 390 through 393 of this title, and the National Endowment for Children’s Educational Television under section 394 of this title; and

(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 941 of this title.

(Pub. L. 102-538, title I, §103, Oct. 27, 1992, 106 Stat. 3534; Pub. L. 107-317, §3, Dec. 4, 2002, 116 Stat. 2767; Pub. L. 112-96, title VI, §6410, Feb. 22, 2012, 126 Stat. 234.)

Editorial Notes

REFERENCES IN TEXT

Reorganization Plan Number 1 of 1977, referred to in subsec. (b)(2), is set out in the Appendix to Title 5, Government Organization and Employees.

Executive Order 12046, referred to in subsec. (b)(2), is set out as a note under section 305 of this title.

The Communications Satellite Act of 1962, referred to in subsec. (b)(2)(C)(iii), (vi), is Pub. L. 87-624, Aug. 31, 1962, 76 Stat. 419, which is classified generally to chapter 6 (§701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

Section 201(a)(6) of the Communications Satellite Act of 1962, referred to in subsec. (b)(2)(C)(iv), was classified to section 721(a)(6) of this title and was omitted from the Code.

Executive Order 11556, referred to in subsec. (b)(2)(S), which was formerly set out as a note under section 305 of this title was revoked by Ex. Ord. No. 12046, set out as a note under section 305 of this title. Section 10 of Ex. Ord. No. 11556 related to advisory committees established by the Director of the former Office of Telecommunications Policy.

AMENDMENTS

2012—Subsec. (b)(2)(U). Pub. L. 112-96 added subpar. (U).

2002—Subsec. (b)(3)(C). Pub. L. 107-317 added subpar. (C).

Statutory Notes and Related Subsidiaries

SPECTRUM INFORMATION TECHNOLOGY MODERNIZATION EFFORTS

Pub. L. 116-283, div. H, title XCII, §9203, Jan. 1, 2021, 134 Stat. 4793, provided that:

“(a) INITIAL INTERAGENCY SPECTRUM INFORMATION TECHNOLOGY COORDINATION.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Assistant Secretary of Commerce for Communications and Information, in consultation with the Policy and Plans Steering Group, shall identify a process to establish goals, including parameters to measure the achievement of such goals, for the modernization of the infrastructure of covered agencies relating to managing the use of Federal spectrum by such agencies, which shall include—

“(1) the standardization of data inputs, modeling algorithms, modeling and simulation processes, analysis tools with respect to Federal spectrum, assumptions, and any other tool to ensure interoperability and functionality with respect to such infrastructure;

“(2) other potential innovative technological capabilities with respect to such infrastructure, including cloud-based databases, artificial intelligence technologies, automation, and improved modeling and simulation capabilities;

“(3) ways to improve the management of the use of Federal spectrum by covered agencies through such infrastructure, including by—

“(A) increasing the efficiency of such infrastructure;

“(B) addressing validation of usage with respect to such infrastructure;

“(C) increasing the accuracy of such infrastructure;

“(D) validating models used by such infrastructure; and

“(E) monitoring and enforcing requirements that are imposed on covered agencies with respect to the use of Federal spectrum by covered agencies;

“(4) ways to improve the ability of covered agencies to meet mission requirements in congested environments with respect to Federal spectrum, including as part of automated adjustments to operations based on changing conditions in such environments;

“(5) the creation of a time-based automated mechanism—

“(A) to share Federal spectrum between covered agencies to collaboratively and dynamically increase access to Federal spectrum by such agencies; and

“(B) that could be scaled across Federal spectrum; and

“(6) the collaboration between covered agencies necessary to ensure the interoperability of Federal spectrum.

“(b) SPECTRUM INFORMATION TECHNOLOGY MODERNIZATION.—

“(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall submit to Congress a report that contains a plan for the National Telecommunications and Information Administration (in this section referred to as the ‘NTIA’) to modernize and automate the infrastructure of the NTIA relating to managing the use of Federal spectrum by covered agencies so as to more efficiently manage such use.

“(2) CONTENTS.—The report required by paragraph (1) shall include—

“(A) an assessment of the current, as of the date on which such report is submitted, infrastructure of the NTIA described in such paragraph;

“(B) an acquisition strategy for the modernized infrastructure of the NTIA described in such paragraph, including how such modernized infrastructure will enable covered agencies to be more efficient and effective in the use of Federal spectrum;

“(C) a timeline for the implementation of the modernization efforts described in such paragraph;

“(D) plans detailing how the modernized infrastructure of the NTIA described in such paragraph will—

“(i) enhance the security and reliability of such infrastructure so that the NTIA is in compliance with the requirements of subchapter II of chapter 35 of title 44, United States Code, with respect to such infrastructure;

“(ii) improve data models and analysis tools to increase the efficiency of the spectrum use described in such paragraph;

“(iii) enhance automation and workflows, and reduce the scope and level of manual effort, in order to—

“(I) administer the management of the spectrum use described in such paragraph; and

“(II) improve data quality and processing time; and

“(iv) improve the timeliness of spectrum analyses and requests for information, including requests submitted pursuant to section 552 of title 5, United States Code;

“(E) an operations and maintenance plan with respect to the modernized infrastructure of the NTIA described in such paragraph;

“(F) a strategy for coordination between the covered agencies within the Policy and Plans Steering Group, which shall include—

“(i) a description of—

“(I) such coordination efforts, as in effect on the date on which such report is submitted; and

“(II) a plan for coordination of such efforts after the date on which such report is submitted, including with respect to the efforts described in subsection (c);

“(ii) a plan for standardizing—

“(I) electromagnetic spectrum analysis tools;

“(II) modeling and simulation processes and technologies; and

“(III) databases to provide technical interference assessments that are usable across the Federal Government as part of a common spectrum management infrastructure for covered agencies; and

“(iii) a plan for each covered agency to implement a modernization plan described in subsection (c)(1) that is tailored to the particular timeline of such agency;

“(G) identification of manually intensive processes involved in managing Federal spectrum and proposed enhancements to such processes;

“(H) metrics to evaluate the success of the modernization efforts described in such paragraph and any similar future efforts; and

“(I) an estimate of the cost of the modernization efforts described in such paragraph and any future maintenance with respect to the modernized infrastructure of the NTIA described in such paragraph, including the cost of any personnel and equipment relating to such maintenance.

“(c) COVERED AGENCY SPECTRUM INFORMATION TECHNOLOGY MODERNIZATION.—

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Jan. 1, 2021], the head of each covered agency shall submit to the Assistant Secretary of Commerce for Communications and Information and the Policy and Plans Steering Group a report that describes a plan for such agency to modernize the infrastructure of such agency with respect to the use of Federal spectrum by such agency so that such modernized infrastructure of such agency is interoperable with the modernized infrastructure of the NTIA, as described in subsection (b).

“(2) CONTENTS.—Each report submitted by the head of a covered agency under paragraph (1) shall—

“(A) include—

“(i) an assessment of the current, as of the date on which such report is submitted, management capabilities of such agency with respect to the use of frequencies that are assigned to such agen-

cy, which shall include a description of any challenges faced by such agency with respect to such management;

“(ii) a timeline for completion of the modernization efforts described in such paragraph;

“(iii) a description of potential innovative technological capabilities for the management of frequencies that are assigned to such agency, as determined under subsection (a);

“(iv) identification of agency-specific requirements or constraints relating to the infrastructure of such agency;

“(v) identification of any existing, as of the date on which such report is submitted, systems of such agency that are duplicative of the modernized infrastructure of the NTIA, as described in subsection (b); and

“(vi) with respect to the report submitted by the Secretary of Defense—

“(I) a strategy for the integration of systems or the flow of data among the Armed Forces, the military departments, the Defense Agencies and Department of Defense Field Activities, and other components of the Department of Defense;

“(II) a plan for the implementation of solutions to the use of Federal spectrum by the Department of Defense involving information at multiple levels of classification; and

“(III) a strategy for addressing, within the modernized infrastructure of the Department of Defense described in such paragraph, the exchange of information between the Department of Defense and the NTIA in order to accomplish required processing of all Department of Defense domestic spectrum coordination and management activities; and

“(B) be submitted in an unclassified format, with a classified annex, as appropriate.

“(3) NOTIFICATION OF CONGRESS.—Upon submission of a report under paragraph (1), the head of a covered agency shall notify Congress that such report has been submitted.

“(d) GAO OVERSIGHT.—The Comptroller General of the United States shall—

“(1) not later than 180 days after the date of the enactment of this Act, conduct a review of the infrastructure of covered agencies, as such infrastructure exists on the date of the enactment of this Act;

“(2) upon submission of all of the reports required by subsection (c), begin conducting oversight of the implementation of the modernization plans submitted by the Assistant Secretary and covered agencies under subsections (b) and (c), respectively;

“(3) not later than 2 years after the date on which the Comptroller General begins conducting oversight under paragraph (2), and biennially thereafter until December 31, 2030, submit a report regarding such oversight to—

“(A) with respect to the implementation of the modernization plan of the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

“(B) with respect to the implementation of the modernization plans of all covered agencies, including the Department of Defense, the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives; and

“(4) until December 31, 2030, provide regular briefings to—

“(A) with respect to the application of this section to the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

“(B) with respect to the application of this section to all covered agencies, including the Department of Defense, the Committee on Commerce,

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

“(e) DEFINITIONS.—In this section:

“(1) The term ‘covered agency’—

“(A) means any Federal entity that the Assistant Secretary of Commerce for Communications and Information determines is appropriate; and

“(B) includes the Department of Defense.

“(2) The term ‘Federal entity’ has the meaning given such term in section 113(l) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(l)).

“(3) The term ‘Federal spectrum’ means frequencies assigned on a primary basis to a covered agency.

“(4) The term ‘infrastructure’ means information technology systems and information technologies, tools, and databases.”

PILOT PROGRAM FOR DIGITAL AND WIRELESS NETWORKS FOR ONLINE EDUCATIONAL PROGRAMS OF STUDY

Pub. L. 110-161, div. B, title V, §536, Dec. 26, 2007, 121 Stat. 1932, as amended by Pub. L. 110-315, title IX, §941(k)(2)(N), Aug. 14, 2008, 122 Stat. 3468, provided that: “This section may be cited as the ‘ED 1.0 Act’.

“(a) In this section:

“(1) The term ‘Administrator’ means the Administrator of the National Telecommunications and Information Administration.

“(2) The term ‘eligible educational institution’ means an institution that is—

“(A) a historically Black college or university;

“(B) a Hispanic-serving institution as that term is defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5));

“(C) a tribally controlled college or university as that term is defined in section 2(a)(4) of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

“(D) an Alaska Native-serving institution as that term is defined in section 317(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(2)); or

“(E) a Native Hawaiian-serving institution as that term is defined in section 317(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(4)).

“(3) The term ‘historically Black college or university’ means a part B institution as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(b)(1)(A) There is established within the National Telecommunications and Information Administration a pilot program under which the Administrator shall award 9 grants to eligible educational institutions to enable the eligible educational institutions to develop digital and wireless networks for online educational programs of study within the eligible educational institutions. The Administrator shall award not less than 1 grant to each type of eligible educational institution, enumerated under subsection (a)(2).

“(B)(i) The Administrator shall award a total of 9 grants under this subsection.

“(ii) The Administrator shall make grant payments under this subsection in the amount of \$500,000.

“(2)(A) In awarding grants under this subsection the Administrator shall give priority to an eligible educational institution that, according to the most recent data available (including data available from the Bureau of the Census), serves a county, or other appropriate political subdivision where no counties exist—

“(i) in which 50 percent of the residents of the county, or other appropriate political subdivision where no counties exist, are members of a racial or ethnic minority;

“(ii) in which less than 18 percent of the residents of the county, or other appropriate political subdivision where no counties exist, have obtained a baccalaureate degree or a higher education;

“(iii) that has an unemployment rate of 7 percent or greater;

“(iv) in which 20 percent or more of the residents of the county, or other appropriate political subdivision where no counties exist, live in poverty;

“(v) that has a negative population growth rate; or

“(vi) that has a family income of not more than \$32,000.

“(B) In awarding grants under this subsection the Administrator shall give the highest priority to an eligible educational institution that meets the greatest number of requirements described in clauses (i) through (vi) of subparagraph (A).

“(3) An eligible educational institution receiving a grant under this subsection may use the grant funds—

“(A) to acquire equipment, instrumentation, networking capability, hardware, software, digital network technology, wireless technology, or wireless infrastructure;

“(B) to develop and provide educational services, including faculty development; or

“(C) to develop strategic plans for information technology investments.

“(4) The Administrator shall not require an eligible educational institution to provide matching funds for a grant awarded under this subsection.

“(5)(A) The Administrator shall consult with the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives, on a quarterly basis regarding the pilot program assisted under this subsection.

“(B) Not later than 1 year after the date of enactment of this section [Dec. 26, 2007], the Administrator shall submit to the committees described in subparagraph (A) a report evaluating the progress of the pilot program assisted under this subsection.

“(c) There are authorized to be appropriated to carry out this section \$4,500,000 for each of fiscal years 2008 and 2009.

“(d) The Administrator shall carry out this section only with amounts appropriated in advance specifically to carry out this section.”

STUDY OF TECHNOLOGY PROTECTION MEASURES

Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1703], Dec. 21, 2000, 114 Stat. 2763, 2763A-336, provided that:

“(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act [Dec. 21, 2000], the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

“(1) evaluating whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately addresses the needs of educational institutions;

“(2) making recommendations on how to foster the development of measures that meet such needs; and

“(3) evaluating the development and effectiveness of local Internet safety policies that are currently in operation after community input.

“(b) DEFINITIONS.—In this section:

“(1) TECHNOLOGY PROTECTION MEASURE.—The term ‘technology protection measure’ means a specific technology that blocks or filters Internet access to visual depictions that are—

“(A) obscene, as that term is defined in section 1460 of title 18, United States Code;

“(B) child pornography, as that term is defined in section 2256 of title 18, United States Code; or

“(C) harmful to minors.

“(2) HARMFUL TO MINORS.—The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

“(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

“(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

“(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(3) SEXUAL ACT; SEXUAL CONTACT.—The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.”

§ 903. Spectrum management activities

(a) Revision of regulations

Within 180 days after October 27, 1992, the Secretary of Commerce and the NTIA shall amend the Department of Commerce spectrum management document entitled “Manual of Regulations and Procedures for Federal Radio Frequency Management” to improve Federal spectrum management activities and shall publish in the Federal Register any changes in the regulations in such document.

(b) Requirements for revisions

The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice, and provide the public with other meaningful opportunities to make presentations and receive advice;

(2) include provisions that will require (A) publication in the Federal Register of major policy proposals that are not classified and that involve spectrum management, and (B) adequate opportunity for public review and comment on those proposals;

(3) include provisions that will require publication in the Federal Register of major policy decisions that are not classified and that involve spectrum management;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic databases; and

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) Certification to Congress

Not later than 180 days after October 27, 1992, the Secretary of Commerce shall certify to Congress that the Secretary has complied with this section.

(d) Radio services

(1) Assignments for radio services

In assigning frequencies for mobile radio services and other radio services, the Secretary of Commerce shall promote efficient and cost-effective use of the spectrum to the maximum extent feasible.

(2) Authority to withhold assignments

The Secretary of Commerce shall have the authority to withhold or refuse to assign fre-

quencies for mobile radio service or other radio service in order to further the goal of making efficient and cost-effective use of the spectrum.

(3) Spectrum plan

By October 1, 1993, the Secretary of Commerce shall adopt and commence implementation of a plan for Federal agencies with existing mobile radio systems to use more spectrum-efficient technologies that are at least as spectrum-efficient and cost-effective as readily available commercial mobile radio systems. The plan shall include a time schedule for implementation.

(4) Report to Congress

By October 1, 1993, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the plan adopted under paragraph (3), including the implementation schedule for the plan.

(e) Proof of compliance with FCC licensing requirements

(1) Amendment to manual required

Within 90 days after August 10, 1993, the Secretary and the NTIA shall amend the spectrum management document described in subsection (a) to require that—

(A) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after August 10, 1993, to operate a radio station utilizing a frequency that is authorized for the use of government stations pursuant to section 902(b)(2)(A) of this title for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission; and

(B) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after August 10, 1993, to utilize a radio station belonging to the United States for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission.

(2) Retention of forms

The NTIA shall maintain on file the proofs submitted under paragraph (1), or facsimiles thereof.

(3) Certification

Within 1 year after August 10, 1993, the Secretary and the NTIA shall certify to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

(A) the amendments required by paragraph (1) have been accomplished; and

(B) the requirements of subparagraphs (A) and (B) of such paragraph are being enforced.