

**H.R. 3125, AS AMENDED BY THE  
SUBCOMMITTEE ON COMMUNICATIONS,  
TECHNOLOGY, AND THE INTERNET  
ON JANUARY 21, 2010**

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Radio Spectrum Inven-  
3 tory Act”.

4 **SEC. 2. SPECTRUM INVENTORY.**

5       Part B of title I of the National Telecommunications  
6 and Information Administration Organization Act (47  
7 U.S.C. 921 et seq.) is amended by adding at the end the  
8 following:

9 **“SEC. 119. SPECTRUM INVENTORY.**

10       “(a) RADIO SPECTRUM INVENTORY.—In order to  
11 promote the efficient use of the electromagnetic spectrum,  
12 the NTIA and the Commission shall coordinate and carry  
13 out each of the following activities not later than 1 year  
14 after the date of enactment of this section:

15               “(1) Except as provided in subsection (e), cre-  
16 ate an inventory of each radio spectrum band of fre-  
17 quencies used in the United States Table of Fre-  
18 quency Allocations, from 225 megahertz to, at a  
19 minimum, 3.7 gigahertz, and to 10 gigahertz unless

1 the NTIA and the Commission determine that the  
2 burden of expanding the inventory outweighs the  
3 benefits. Such inventory shall include—

4 “(A) the radio services authorized to oper-  
5 ate in each band of frequencies;

6 “(B) the identity of each Federal or non-  
7 Federal user within each such radio service au-  
8 thorized to operate in each band of frequencies;

9 “(C) the activities, capabilities, functions,  
10 or missions supported by the transmitters, end-  
11 user terminals or receivers, or other radio fre-  
12 quency devices authorized to operate in each  
13 band of frequencies;

14 “(D) the total amount of spectrum, by  
15 band of frequencies, assigned or licensed to  
16 each Federal or non-Federal user (in percent-  
17 age terms and in sum) and the geographic  
18 areas covered by their respective assignments or  
19 licenses;

20 “(E) the approximate number of transmit-  
21 ters, end-user terminals or receivers, or other  
22 radio frequency devices authorized to operate,  
23 as appropriate to characterize the extent of use  
24 of each radio service in each band of fre-  
25 quencies;

1           “(F) an approximation of the extent to  
2           which each Federal or non-Federal user is  
3           using, by geography, each band of frequencies,  
4           such as the amount and percentage of time of  
5           use, number of end users, or other measures as  
6           appropriate to the particular band and radio  
7           service; and

8           “(G) to the greatest extent possible—

9           “(i) contour maps or other informa-  
10          tion that illustrate the coverage area, re-  
11          ceiver performance, and other parameters  
12          relevant to an assessment of the avail-  
13          ability of spectrum in each band;

14          “(ii) for each band or range of fre-  
15          quencies, the identity of each entity offer-  
16          ing unlicensed services and the types and  
17          approximate number of unlicensed inten-  
18          tional radiators verified or certified by the  
19          Commission that are authorized to operate;  
20          and

21          “(iii) for non-Federal users, any com-  
22          mercial names under which facilities-based  
23          service is offered to the public using the  
24          spectrum of the non-Federal user, includ-

1                   ing where the spectrum is being offered via  
2                   resale and under what commercial names.

3                   “(2) Create a centralized portal or website to  
4                   make the inventory of the bands of frequencies avail-  
5                   able to the public via an Internet-accessible website.

6                   “(b) USE OF AGENCY RESOURCES.—In creating the  
7                   inventory described in subsection (a)(1), the NTIA and  
8                   the Commission shall first use agency resources, including  
9                   existing databases, field testing, and recordkeeping sys-  
10                  tems, and only request information from Federal and non-  
11                  Federal users if such information cannot be obtained  
12                  using such agency resources.

13                  “(c) REPORTS.—Except as provided in subsection  
14                  (e), not later than 2 years after the date of enactment  
15                  of this section and biennially thereafter, the NTIA and  
16                  the Commission shall each submit a report to the Com-  
17                  mittee on Commerce, Science, and Transportation of the  
18                  Senate and to the Committee on Energy and Commerce  
19                  of the House of Representatives containing—

20                  “(1) the results of the inventory created under  
21                  subsection (a)(1), including any update to the infor-  
22                  mation in the inventory pursuant to subsection (d);

23                  “(2) a description of any information the NTIA  
24                  or the Commission determines is necessary for such  
25                  inventory but that is unavailable;

1           “(3) a description of any information not pro-  
2           vided by any Federal or non-Federal user in accord-  
3           ance with subsection (e);

4           “(4) a recommendation of which spectrum, if  
5           any, that should be reallocated or otherwise made  
6           available for shared access and an explanation of the  
7           basis for that recommendation; and

8           “(5) if the NTIA and the Commission deter-  
9           mine that they should not conduct an inventory to  
10          10 gigahertz within 1 year after the date of enact-  
11          ment of this section, an evaluation of whether the  
12          burden of expanding the inventory to 10 gigahertz  
13          outweighs the benefits.

14          “(d) MAINTENANCE AND UPDATING OF INFORMA-  
15          TION.—After the creation of the inventory required by  
16          subsection (a)(1), the NTIA and the Commission shall  
17          make all efforts necessary to maintain and update the in-  
18          formation required under such subsection and whenever  
19          there is a transfer or auction of a license or a change in  
20          an assignment or license.

21          “(e) NATIONAL SECURITY AND PUBLIC SAFETY IN-  
22          FORMATION.—

23                 “(1) FEDERAL SPECTRUM NONDISCLOSURE.—If  
24                 the head of an executive agency of the Federal Gov-  
25                 ernment determines that public disclosure of certain

1 information held by that agency and required by  
2 subsections (a), (c), or (d) would reveal classified na-  
3 tional security information or other information for  
4 which there is a legal basis for non-disclosure and  
5 such public disclosure would be detrimental to na-  
6 tional security, homeland security, or public safety,  
7 the agency head shall notify the NTIA of that deter-  
8 mination. The agency head shall provide to NTIA—

9 “(A) the publicly releasable information re-  
10 quired by subsection (a)(1);

11 “(B) to the maximum extent practicable, a  
12 summary description, suitable for public re-  
13 lease, of the classified national security infor-  
14 mation or other information for which there is  
15 a legal basis for non-disclosure; and

16 “(C) an annex, under appropriate cover,  
17 containing the classified national security infor-  
18 mation or other information for which there is  
19 a legal basis for non-disclosure that the agency  
20 head has determined must be withheld from  
21 public disclosure.

22 “(2) NON-FEDERAL SPECTRUM NONDISCLO-  
23 SURE.—

24 “(A) IN GENERAL.—If a licensee of non-  
25 Federal spectrum determines that public disclo-

1           sure of certain information held by that licensee  
2           and required by subsections (a), (c), or (d)  
3           would reveal classified national security infor-  
4           mation or other information for which there is  
5           a legal basis for non-disclosure and such public  
6           disclosure would be detrimental to national se-  
7           curity, homeland security, or public safety, the  
8           licensee may petition the Commission for a par-  
9           tial or total exemption from inclusion on the  
10          website and in the report required by sub-  
11          sections (a), (c), and (d).

12           “(B) BURDEN.—The licensee seeking an  
13          exemption under this paragraph bears the bur-  
14          den of justifying the exemption and shall pro-  
15          vide clear and convincing evidence to support  
16          such an exemption.

17           “(C) INFORMATION REQUIRED.—If an ex-  
18          emption is granted under this paragraph, the li-  
19          censee shall provide to the Commission—

20                   “(i) the publicly releasable informa-  
21                   tion required by subsection (a)(1) for the  
22                   inventory;

23                   “(ii) to the maximum extent prac-  
24                   ticable, a summary description, suitable for  
25                   public release, of the classified national se-

1           curity information or other information for  
2           which there is a legal basis for non-disclo-  
3           sure and such public disclosure would be  
4           detrimental to national security, homeland  
5           security, or public safety;

6           “(iii) an annex, under appropriate  
7           cover, containing the classified national se-  
8           curity information or other information for  
9           which there is a legal basis for non-disclo-  
10          sure and such public disclosure would be  
11          detrimental to national security, homeland  
12          security, or public safety that the licensee  
13          has determined must be withheld from  
14          public disclosure.

15          “(3) ADDITIONAL DISCLOSURE.—The annexes  
16          required under paragraphs (1)(C) and (2)(C)(3)  
17          shall be provided to the congressional committees  
18          listed in subsection (c), but shall not be disclosed to  
19          the public under subsection (a) or subsection (d).

20          “(f) PROPRIETARY INFORMATION.—In creating and  
21          maintaining the inventory, centralized portal or website,  
22          and reports under this section, the NTIA and the Commis-  
23          sion shall follow their rules and practice regarding con-  
24          fidential and proprietary information. Nothing in this sub-  
25          section shall be construed to compel the Commission to

- 1 make publicly available any confidential or proprietary in-
- 2 formation.”.

