118TH CONGRESS  
1ST SESSION  

H. R. 3430

To amend the National Telecommunications and Information Administration Organization Act to enhance Federal spectrum relocation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES  

MAY 17, 2023  

Ms. MATSUI introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the National Telecommunications and Information Administration Organization Act to enhance Federal spectrum relocation, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Spectrum Relocation Enhancement Act”.

SEC. 2. FEDERAL SPECTRUM RELOCATION AND SHARING.

(a) Relocation or Sharing Costs To Satisfy Operational Requirements of Federal Entities.—
(1) IN GENERAL.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(A) in section 113(g)—

(i) in paragraph (3)—

(I) in the first sentence of subparagraph (A), by striking “in order to achieve comparable capability of systems as before the relocation or sharing arrangement” and inserting “to deploy systems that satisfy the operational requirements of such entity, which may have increased from the operational requirements being met before the relocation or sharing arrangement”; and

(II) by amending subparagraph (B) to read as follows:

“(B) INCREASED OPERATIONAL REQUIREMENTS.—For purposes of subparagraph (A), paragraph (6), and section 118(f)(2)(B)(ii), the operational requirements of a Federal entity do not include any increased operational requirements the costs of which jeopardize the opportunity for a successful auction, sharing, or
other non-Federal use of the eligible frequencies involved.”; and

(ii) in paragraph (6)—

(I) in the first sentence, by striking “of comparable capability” and inserting “that meet the operational requirements of such entities”; and

(II) in the second sentence, by striking “a Federal entity has achieved comparable capability of systems” and inserting “the operational requirements of a Federal entity are met”; and

(B) in section 118(f)(2)(B)(ii), by striking “to achieve comparable capability of systems affected by the reallocation of eligible frequencies from Federal use to exclusive non-Federal use or to shared use” and inserting “to deploy systems that satisfy the operational requirements of the eligible Federal entity”.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply with respect to relocation or sharing costs, or payments under section 118(f) of the National Telecommunications and Information Administration Organization Act (47
U.S.C. 928(f)), as the case may be, with respect to a transition plan that is found to be sufficient under section 113(h)(4) of such Act (47 U.S.C. 923(h)(4)) after the date of the enactment of this Act.

(b) Payments From Spectrum Relocation Fund for Research and Development and Planning Activities.—

(1) IN GENERAL.—Section 118(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928(g)(2)) is amended to read as follows:

“(2) Use of Amounts.—

“(A) IN GENERAL.—The Director of OMB may use amounts made available under paragraph (1) to make payments intended to improve the efficiency and effectiveness of the spectrum use of Federal entities in order to make available frequencies described in subparagraph (C) for reallocation for non-Federal use or shared Federal and non-Federal use, or a combination thereof, and for auction in accordance with such reallocation—

“(i) to Federal entities for research and development, engineering studies, economic analyses, activities with respect to
systems, preparing transition plans required by section 113(h)(1), or other planning activities; and

“(ii) to the NTIA for research and development, engineering studies, economic analyses, or other planning activities or to conduct activities required by subparagraph (H).

“(B) ACTIVITIES WITH RESPECT TO SYSTEMS.—For purposes of a payment under subparagraph (A)(i) for activities with respect to systems, such systems include the following:

“(i) Systems (including systems that obtain passive scientific observations) that have increased functionality or that increase the ability of a Federal entity to accommodate spectrum sharing with non-Federal entities.

“(ii) Systems that consolidate functions or services that have been provided using separate systems.

“(iii) Non-spectrum technology or systems.

“(C) FREQUENCIES DESCRIBED.—The frequencies described in this subparagraph are,
with respect to a payment under subparagraph (A), frequencies—

“(i) that are assigned to a Federal entity; and

“(ii) at the time of the activities conducted with such payment, with respect to which no relocation or sharing costs have been transferred to the Federal entity under subsection (d)(3) or (e).

“(D) CONDITIONS.—The Director of OMB may not make a payment to a Federal entity under subparagraph (A)(i)—

“(i) unless—

“(I) the Federal entity has submitted to the Technical Panel established under section 113(h)(3) a plan describing the activities that the Federal entity will conduct with such payment;

“(II) the NTIA has reviewed the plan, determined that the activities described in the plan and the costs associated with such activities are appropriate, and advised the Director of
OMB as to the appropriateness of such costs;

“(III) the Technical Panel has approved such plan under subpar-

phrase (F); and

“(IV) the Director of OMB has submitted the plan approved under sub-

paragraph (F) to the congressional committees described in subsection

(d)(2)(C); and

“(ii) until 30 days have elapsed after submission of the plan under clause

(i)(IV).

“(E) REQUIREMENTS FOR PLAN OF FED-

ERAL ENTITY.—

“(i) REQUIRED CONTENTS.—A plan submitted by a Federal entity under sub-

paragraph (D)(i)(I) with respect to a pay-

ment under this subsection shall include the following:

“(I) A plan and timeline for the activities to be conducted with such payment, including a description and the estimated cost of each effort in-

cluded as part of each such activity.
“(II) A schedule for such activities, with incremental deliverables and that includes time for review by the NTIA of interim results and for the NTIA to advise the Director of OMB regarding subsequent payments.

“(III) Requirements for status reporting to the Director of OMB and the NTIA.

“(IV) Requirements for participation in any NTIA-led activities associated with the plan.

“(ii) ESTABLISHMENT OF ADDITIONAL REQUIREMENTS FOR CONTENTS.—The Technical Panel established under section 113(h)(3) may establish additional requirements for the contents of the plan to be submitted under subparagraph (D)(i)(I) to facilitate review and approval or disapproval of the plan under subparagraph (F).

“(iii) COORDINATION BY FEDERAL ENTITY WITH NTIA.—A Federal entity that is developing a plan to be submitted under subparagraph (D)(i)(I) shall coordinate
with the NTIA during the development of the plan, including any research, engineering, or analysis activities included in the plan.

“(iv) **Revised Activities and Updated Plan.**

“(I) **Revised Activities.**—If the NTIA, in consultation with the Director of OMB, determines that revisions to the activities that a Federal entity is conducting with a payment under this subsection are required to achieve the most efficient and effective use of spectrum by Federal entities in order to make frequencies available for reallocation for non-Federal use or shared Federal and non-Federal use, or a combination thereof, and for auction in accordance with such reallocation—

“(aa) the NTIA, in consultation with the Director of OMB, shall direct the Federal entity to revise such activities in accordance with the determination; and
“(bb) not later than 45 days after receiving the direction under item (aa), the Federal entity shall revise such activities as directed.

“(II) UPDATED PLAN.—If the Director of OMB, in consultation with the NTIA, determines that the revisions the NTIA has directed a Federal entity to make under subclause (I) to the activities the Federal entity is conducting with a payment under this subsection are outside the scope of the original plan or the most recent updated plan (as the case may be) of the Federal entity with respect to such payment that was approved under subparagraph (F)—

“(aa) the Director of OMB shall direct the Federal entity to submit an updated plan under subparagraph (D)(i)(I) to reflect such revisions; and

“(bb) not later than 45 days after receiving the direction
under item (aa), the Federal entity shall submit such updated plan under subparagraph (D)(i)(I), which shall be approved or disapproved under subparagraph (F) in the same manner as the original plan.

“(F) REVIEW OF PLAN BY TECHNICAL PANEL.—

“(i) IN GENERAL.—Not later than 120 days after a Federal entity submits a plan under subparagraph (D)(i)(I) to the Technical Panel established under section 113(h)(3), the Technical Panel shall approve or disapprove such plan.

“(ii) CRITERIA FOR REVIEW.—In considering whether to approve or disapprove a plan under this subparagraph, the Technical Panel shall consider whether—

“(I) the activities that the Federal entity will conduct with the payment will—

“(aa) increase or maintain the ability of the Federal entity
to meet the operational requirements of the Federal entity;

“(bb) increase the probability of relocation from or sharing of Federal spectrum;

“(cc) facilitate an auction intended to occur not later than 8 years after the payment; and

“(dd) increase the net expected auction proceeds in an amount not less than the time value of the amount of the payment; and

“(II) the transfer will leave sufficient amounts in the Fund for the other purposes of the Fund.

“(G) REQUIRED USE OF PAYMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii), a Federal entity that receives a payment under this subsection may only use the payment in accordance with the original plan or the most recent updated plan (as the case may be) of the Federal entity with respect to such pay-
ment that was approved under subparagraph (F).

“(ii) INTERIM AUTHORITY TO CONDUCT REVISED ACTIVITIES.—In the case of a Federal entity that has received a direction from the Director of OMB under subparagraph (E)(iv)(II)(aa) to submit an updated plan under subparagraph (D)(i)(I) to reflect revisions that the NTIA has directed the Federal entity to make under subparagraph (E)(iv)(I)(aa) to the activities that the Federal entity is conducting with a payment under this subsection, the Federal entity may use the payment to conduct activities that reflect such revisions notwithstanding clause (i) until—

“(I) if the Federal entity fails to submit the updated plan by the deadline under subparagraph (E)(iv)(II)(bb), such deadline; or

“(II) if the Federal entity submits the updated plan by the deadline under subparagraph (E)(iv)(II)(bb), the date on which the updated plan is
approved or disapproved under subparagraph (F).

“(iii) TERMINATION OF AUTHORITY TO USE PAYMENT.—If a Federal entity described in clause (ii) fails to submit the updated plan by the deadline under subparagraph (E)(iv)(II)(bb), or if the updated plan is disapproved under subparagraph (F), the Federal entity may not, after such deadline or the date on which the updated plan is disapproved (as the case may be), conduct any activities using such payment, until such time as the updated plan is submitted or resubmitted (as the case may be) and approved under subparagraph (F).

“(H) ROLE OF NTIA.—

“(i) OVERSIGHT BY NTIA.—The NTIA shall—

“(I) establish and carry out a process to conduct oversight of the execution of plans approved under subparagraph (F);

“(II) in accordance with subparagraph (D)(i)(II), review plans submitted under subparagraph (D)(i)(I),
determine whether the activities described in such plans and the costs associated with such activities are appropriate, and advise the Director of OMB as to the appropriateness of such costs;

“(III) in accordance with subparagraph (E)(i)(II), review the interim results of the activities conducted by Federal entities using payments under this subsection and advise the Director of OMB regarding subsequent payments to such entities;

“(IV) in accordance with subparagraph (E)(iv)(I), determine whether revisions to the activities that a Federal entity is conducting with a payment under this subsection are required and, if so, direct the Federal entity to revise such activities;

“(V) in accordance with subparagraph (E)(iv)(II), consult with the Director of OMB on the need for the Federal entity to submit an updated
plan under subparagraph (D)(i)(I) to reflect any such revised activities; and

“(VI) conduct activities required to aggregate the results of activities conducted by individual Federal entities with payments under this subsection into a comprehensive assessment to ensure any recommendation to the Commission for reallocation of a band of frequencies has properly accounted for, addressed, and protected all Federal interests in and adjacent to the band.

“(ii) SPECTRUM STUDIES.—

“(I) ACTIVITIES NOT IDENTIFIED IN PLANS OF FEDERAL ENTITIES.—

The NTIA, in coordination with Federal entities, shall, as needed, conduct spectrum studies (including studies relating to advances in spectrum engineering, science, and technology) that are not associated with the activities identified in the plans of Federal entities approved under subparagraph (F).
“(II) Participation and Information from Federal Agencies.—

A Federal agency shall participate in the spectrum studies described in sub-clause (I) and provide information to the NTIA, as necessary for the NTIA to carry out such subclause.”.

(2) Conforming Amendment.—Section 113(h)(3)(C) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(h)(3)(C)) is amended by striking “section 118(g)(2)(E)” and inserting “section 118(g)(2)(F)”.

(3) Applicability.—The amendments made by this subsection shall apply with respect to payments requested under section 118(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928(g)(2)) after the date of the enactment of this Act.

(c) Payments from Spectrum Relocation Fund for Administrative Support for Technical Panel.—Section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928) is amended by adding at the end the following:
“(j) Administrative Support for Technical Panel.—Notwithstanding subsections (c) through (e), there are appropriated from the Fund and available to the Director of OMB such sums as are required to make payments to the NTIA to enable the NTIA to provide administrative support services to the Technical Panel established by subparagraph (A) of section 113(h)(3), as required by subparagraph (C) of such section.”.