

**DEPARTMENT OF COMMERCE**

**National Telecommunications and Information Administration**

Docket No. [ 010327080-1080-01 ]

RIN 0660-XX12

Request for Comment on Energy, Water and Railroad Service Providers' Spectrum Use Study

**AGENCY:** National Telecommunications and Information Administration

**ACTION:** Notice, Request for Comments

**SUMMARY:** Public Law 106-553, making appropriated funds available to the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 2001, contained a provision directing the National Telecommunications and Information Administration (NTIA) to submit to Congress a study of the current and future use of spectrum by providers of energy, water and railroad services to protect and maintain the nation's critical infrastructure.<sup>1</sup>

Therefore, NTIA is conducting an investigation of current and future use of radio frequency spectrum in the United States by providers of energy, water and railroad services, and how current and emerging technology trends affect use of the radio spectrum. By this notice and request for comments, NTIA is soliciting the views of the industry and the public on these issues.

**DATES:** Comments must be received on or before [insert 60 days after publication in the *Federal Register*].

**ADDRESS:** The Department invites the public to submit written comments in paper or electronic form. Comments may be mailed to Jeng Mao, Public Safety Program, National

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<sup>1</sup> See Federal Funding, Fiscal Year 2001, Pub. L. No.106-553, 114 Stat. 2762, 2762A-174 (2000).

Telecommunications and Information Administration, U.S. Department of Commerce, Room 4624, 14<sup>th</sup> and Constitution Avenue, N.W., Washington, D.C. 20230. Paper submissions should include an electronic version on diskette in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format.

In the alternative, comments may be submitted in electronic form to the following electronic mail address: <utilities@ntia.doc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jeng Mao, (202) 501-0342, jmao@ntia.doc.gov, or Marshall Ross, (202) 482-1222, mross@ntia.doc.gov, Public Safety Program, NTIA.

**SUPPLEMENTARY INFORMATION:**

**Background**

Energy, water and railroad services are primary components of the nation's critical infrastructure. Processing voice and data information via wireless radio systems is an efficient way to supervise, control and monitor these utilities on a daily basis. It is also an efficient means of communications during situations requiring emergency response. Without adequate radio spectrum, providers of energy, water and railroad services would be unable to address major service interruptions due to natural disaster, equipment malfunctions or in some cases, terrorist activities. Wireless telecommunications are frequently used by utilities to monitor power transmission lines, water pumps and also to send commands to various remote control switches. In addition, some utilities must comply with State statutes requiring them to respond to service interruptions within a specified time period. Interruption of these services could disrupt emergency response efforts and impede law enforcement activities. Furthermore, lack of

interoperability can be a major hindrance to mission-critical public safety communications.

Multi-jurisdictional coordination between Federal and non-federal entities during crisis situations can be severely impacted because of inadequate radio spectrum.

NTIA is the President's principal adviser on telecommunications and information policy and manages the Federal Government's use of radio spectrum.<sup>2</sup> The Federal Communications Commission (FCC), an independent agency established by the Communications Act of 1934, manages the use of radio spectrum by state and local governments and the private sector, including the energy, water and railroad industries.<sup>3</sup> Public Law 106-553, making appropriated funds available to the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 2001, contained a provision directing the National Telecommunications and Information Administration (NTIA) to submit to Congress a study of the current and future use of spectrum by providers of energy, water and railroad services to protect and maintain the nation's critical infrastructure.<sup>4</sup> The statute also requires the FCC Chairman to submit a subsequent report to Congress addressing any needs identified in NTIA's study. The statute specifically provides:

[T]he [NTIA] Administrator shall, after consultation with other federal departments and agencies responsible for regulating the core operations of entities

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<sup>2</sup> 47 U.S.C. § 902 (2000).

<sup>3</sup> For example, see the FCC's proceeding to address the requirements of the private land mobile radio community, including the energy, water and railroad industries, for more efficient use of the radio spectrum below 800 MHz, commonly called the "Refarming Proceeding." Documents related to the Refarming Proceeding are available on the FCC's web site at <<http://www.fcc.gov/wtb/plmrs/refarmdocs.html>>.

<sup>4</sup> *Supra*, n. 1.

engaged in the provision of energy, water and railroad services, complete and submit to Congress, not later than twelve months after date of enactment of this subsection, a study of the current and future use of spectrum by these entities to protect and maintain that nation's critical infrastructure: Provide further, That within six months after the release of this study, the Chairman of the Federal Communications Commission shall submit a report to Congress on the actions that could be taken by the Commission to address any needs identified in the Administrator's study.<sup>5</sup>

### **Questions for Public Comment**

In order to obtain information necessary for NTIA to conduct an assessment of current and future spectrum requirements of providers of energy, water, and railroad services to protect and maintain the nation's critical infrastructure, NTIA seeks public comment on any issue of fact, law, or policy that may inform the agency about spectrum requirements of these industries taking into account growth, new technology, and future applications. Specifically, comments are requested on the questions below.

These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comments may be submitted. Comments should cite the number of the question(s) being addressed. Please provide copies of any studies, research and other empirical data referenced in the comments.

1. How much spectrum is presently available for the energy, water and railroad industries?

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<sup>5</sup> *Id* at 2762A-174 to 2762A-175. NTIA is required to submit its report to Congress no later than December 21, 2001.

2. In which spectrum bands and in which radio services do these industries operate radio communications equipment?
3. What kinds of spectrum-dependent telecommunications equipment are currently being used by the energy, water and railroad industries?
4. Are there non-spectrum dependent alternative technologies or commercial services currently available?
5. What part of the spectrum do the energy, water and railroad industries foresee for possible future use? What is the rationale for these additional spectrum requirements?
6. What non-spectrum dependent communications technologies or commercial alternatives will be available in the future for the energy, water and railroad industries?

Kathy Smith

Chief Counsel