

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of Part 15 of the Commission's Rules to)	ET Docket No. 13-49
Permit Unlicensed National Information)	
Infrastructure (U-NII) Devices in the 5 GHz Band)	

ORDER

Adopted: June 1, 2015

Released: June 1, 2015

By the Commission:

1. By this Order, we waive until December 2, 2015 the requirement in Section 15.37(h) of the Commission's rules that certain National Information Infrastructure (U-NII) devices must comply with our revised Section 15.407 rules to be certified on and after June 2, 2015. This action is taken in response to a request by a group of interested parties (Joint Petitioners) to extend this compliance deadline as part of a larger review of the transition provisions we recently adopted for the U-NII-3 band.¹ This action is being taken without prejudice relative to the merits of the Joint Petitioners' filings in the docket.²

2. On April 1, 2014, the Commission released a *First Report and Order* in the above-captioned proceeding.³ This *First R&O* increased the utility of the 5 GHz band where U-NII devices operate, and modified certain U-NII rules and testing procedures to ensure that U-NII devices do not cause harmful interference to authorized users of the band. The *First R&O*, *inter alia*, extended the upper edge of the 5.725-5.825 GHz U-NII-3 band to 5.85 GHz and consolidated the provisions applicable to digitally modulated devices from Section 15.247 of the rules with the U-NII-3 rules in Section 15.407 so that all the digitally modulated devices operating in the U-NII-3 band will operate under the same set of rules and be subject to the new device security requirement. Notably, the consolidated rules adopted require the more stringent out-of-band emissions limit formerly applicable only to U-NII-3 devices in order to protect Terminal Doppler Weather Radar (TDWR) facilities from inference.

3. To facilitate the transition to the new technical requirements, without unduly impairing the availability or cost of U-NII devices or imposing undue burdens on manufacturers, or the public, the Commission adopted transition provisions which are outlined in Section 15.37(h).⁴ These transition provisions require that the marketing, sale and importation into the United States of digitally modulated and hybrid devices designed to operate in the U-NII-3 band and certified under the old Section 15.247

¹ Wireless Internet Service Providers Association, et al, *Joint Petition for Waiver of Effective Dates*, ET Docket 13-49 (filed April 14, 2015) (Joint Petition). The Joint Petitioners are Alcatel-Lucent, American Petroleum Institute, Cambium Networks, LTD., Fastback Networks, JAB Wireless, Inc., Mimosa Networks, Inc., Zebra Technologies, and the Wireless Internet Service Providers Association.

² See, e.g., Wireless Internet Service Providers Association, et al, October 9, 2014, March 23, 2015 and March 31, 2015 *ex parte* filings in ET Docket 13-49.

³ Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, Public Notice for Petitions for Reconsideration of Action in Rulemaking Proceedings, ET Docket 13-49, *First Report and Order*, 29 FCC Rcd 4127 (2014) (*First R&O*).

⁴ 47 CFR §15.37(h).

rules must cease by June 2, 2016. As an intermediate measure, they provide that after June 2, 2015, digital modulation devices and the digital modulation portion of hybrid devices designed to operate in the U-NII-3 band must meet the new Section 15.407 U-NII-3 rules to be FCC certified. This waiver order exclusively addresses the June 2, 2015 certification requirement.

4. Petitions for reconsideration of the *First R&O* are still pending. While the petitioners have generally alleged that the current state of the technology inhibits the design of affordable products that could comply with the more stringent out-of-band emission limits for the U-NII-3 band, the alternatives they suggested have been wide-ranging and many of the parties could not agree on a single solution that would meet the needs of the varying industry segments. Significant information was, and continues to be, submitted into the record. In particular, on March 23, 2015, the Joint Petitioners filed a self-styled “Consensus Proposal.”⁵ This detailed filing included technical rules that would significantly modify the out-of-band emission limits adopted for the U-NII-3 Band in the *First R&O*. Shortly thereafter, the Joint Petitioners requested that we waive Section 15.37(h) of the rules.⁶

5. In light of the recent activity in the docket, we conclude that there is good cause to grant a waiver of the June 2, 2015 U-NII device certification date.⁷ Doing so will give the Commission adequate time to consider the entire record – including the Joint Petitioners’ “Consensus Proposal” – as part of the reconsideration proceeding, and it will continue to certify U-NII-3 band devices meeting the requirements of the old Section 15.427 until December 2, 2015. A brief extension of the intermediate transition deadline will not frustrate the ultimate U-NII-3 transition adopted in the *First R&O*, including the Commission’s determinations regarding the marketing, importation, and sale of digitally modulated and hybrid devices. Grant of the waiver, however, will permit manufacturers to better plan their research and design activities to comply with the outcome of any further action we may take on reconsideration.⁸

6. Accordingly, pursuant to the authority in Sections 1.3 of the Commission's rules, 47 C.F.R. §1.3, and Sections 302,303(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 302, 303(e) and 303(r), IT IS ORDERED that the Section 15.37(h) of the Commission’s rules, 47 C.F.R. §15.37(h) IS WAIVED to the extent discussed above until December 2, 2015.

7. IT IS FUTHER ORDERED that the effective date of this Order IS THE DATE upon which this Order is released by the Commission.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ Wireless Internet Service Providers Association, et al, March 23, 2015 *ex parte* filing in ET Docket 13-49.

⁶ *Joint Petition*, *supra* note 1.

⁷ *See, e.g.*, Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 22 FCC Rcd 19730 (2007) (finding good cause to extend a deadline for completing the transition of broadcast auxiliary service frequencies).

⁸ As stated above, grant of this waiver should not be construed to prejudice any issue in the reconsideration proceeding, including those raised by the Joint Petitioners.