

**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: December 2, 2015

Released: December 3, 2015

By the Commission:

1. By this Waiver Order we extend the current December 2, 2015 deadline by three months (until March 2, 2016) for the requirement that certain National Information Infrastructure (U-NII) devices must comply with our revised Section 15.407 rules in order to be certified. This action is taken in response to requests by several interested parties to extend this certification deadline as part of a larger review of the transition provisions and our OOBE rules we recently adopted for the U-NII-3 band.¹ This action is being taken without prejudice relative to the merits of the 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 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) and other radar facilities from inference.

3. To facilitate the transition to the new technical requirements, without unduly impairing the availability of U-NII devices, creating unnecessary costs for such devices, or imposing undue burdens on manufacturers, or the public, the Commission adopted transition provisions which are outlined in

¹ Wireless Internet Service Providers Association, et al, *Joint Petition for Waiver*, ET Docket 13-49 (filed November 5, 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. Intel, November 6, 2015 *ex parte* filing in ET Docket 13-49. NETGEAR, Inc., November 11, 2015 *ex parte* filing in ET Docket 13-49. Broadcom Corporation, November 16, 2015, *Letter* filing in ET Docket 13-49.

² See, e.g., Wireless Internet Service Providers Association, et al, October 9, 2014, March 23, 2015, March 31, 2015, June 30, 2015, October 22, 2015, and November 4, 2015 *ex parte* filings in ET Docket 13-49. See also, e.g., Ubiquiti Networks, Inc., June 1, 2015, and July 2, 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*).

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 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 certified. On June 1, 2015 the Commission extended the certification requirement to December 2, 2015 in order to provide time to adequately consider the numerous amount of filings in record.⁵

4. Petitions for reconsideration of the *First R&O* are still pending. In response to the first petition to extend the June 2, 2015 certification deadline, the Commission noted that, while the petitioners had 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 had 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. The various parties have continued to collaborate and have continued to submit new and revised proposals, with the most recent proposal being submitted as recently as November 4, 2015.

5. In light of the recent activity in the docket, we conclude that there is good cause to grant a waiver of the December 2, 2015 U-NII device certification deadline until March 2, 2016. Doing so will give the Commission adequate time to consider the entire record⁶ – including the recent submissions discussed above – as part of the reconsideration proceeding. Accordingly, the Commission will continue to certify U-NII-3 band devices meeting the requirements of the old Section 15.247 until March 2, 2016. We note that the ultimate purpose of the certification deadline was to reduce the threat of harmful interference to the TDWR from devices on the market that were easily and unlawfully modified. We conclude that a brief extension of the certification deadline will not frustrate the ultimate purpose of the U-NII-3 transition. 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. The Commission will respond to requests to postpone the June 2, 2016 cut-off on marketing and importation of the subject devices when it addresses the pending reconsideration petitions.

6. Accordingly, pursuant to Section 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. §§ 302a, 303(e) and 303(r), IT IS ORDERED that the requirement of Section 15.37(h) of the Commission's rules, 47 C.F.R. §15.37(h), IS WAIVED to the extent discussed above until March 2, 2016.

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

⁴ 47 CFR §15.37(h).

⁵ Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, ET Docket 13-49, *Order*, 30 FCC Rcd 6572 (2015) (*Extension Order*).

⁶ This is consistent with prior Commission actions. *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).