

**§ 1453. Unlicensed use in the 5 GHz band****(a) Modification of Commission regulations to allow certain unlicensed use****(1) In general**

Subject to paragraph (2), not later than 1 year after February 22, 2012, the Commission shall begin a proceeding to modify part 15 of title 47, Code of Federal Regulations, to allow unlicensed U–NII devices to operate in the 5350–5470 MHz band.

**(2) Required determinations**

The Commission may make the modification described in paragraph (1) only if the Commission, in consultation with the Assistant Secretary, determines that—

(A) licensed users will be protected by technical solutions, including use of existing, modified, or new spectrum-sharing technologies and solutions, such as dynamic frequency selection; and

(B) the primary mission of Federal spectrum users in the 5350–5470 MHz band will not be compromised by the introduction of unlicensed devices.

**(b) Study by NTIA****(1) In general**

The Assistant Secretary, in consultation with the Department of Defense and other impacted agencies, shall conduct a study evaluating known and proposed spectrum-sharing technologies and the risk to Federal users if unlicensed U–NII devices were allowed to operate in the 5350–5470 MHz band and in the 5850–5925 MHz band.

**(2) Submission**

The Assistant Secretary shall submit to the Commission and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) not later than 8 months after February 22, 2012, a report on the portion of the study required by paragraph (1) with respect to the 5350–5470 MHz band; and

(B) not later than 18 months after February 22, 2012, a report on the portion of the study required by paragraph (1) with respect to the 5850–5925 MHz band.

**(c) Definitions**

In this section:

**(1) 5350–5470 MHz band**

The term “5350–5470 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5350 megahertz to 5470 megahertz.

**(2) 5850–5925 MHz band**

The term “5850–5925 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5850 megahertz to 5925 megahertz.

(Pub. L. 112–96, title VI, § 6406, Feb. 22, 2012, 126 Stat. 231.)

**§ 1454. Guard bands and unlicensed use****(a) In general**

Nothing in subparagraph (G) of section 309(j)(8) of this title or in section 1452 of this

title shall be construed to prevent the Commission from using relinquished or other spectrum to implement band plans with guard bands.

**(b) Size of guard bands**

Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands.

**(c) Unlicensed use in guard bands**

The Commission may permit the use of such guard bands for unlicensed use.

**(d) Database**

Unlicensed use shall rely on a database or subsequent methodology as determined by the Commission.

**(e) Protections against harmful interference**

The Commission may not permit any use of a guard band that the Commission determines would cause harmful interference to licensed services.

(Pub. L. 112–96, title VI, § 6407, Feb. 22, 2012, 126 Stat. 231.)

**§ 1455. Wireless facilities deployment****(a) Facility modifications****(1) In general**

Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

**(2) Eligible facilities request**

For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

(A) collocation of new transmission equipment;

(B) removal of transmission equipment; or

(C) replacement of transmission equipment.

**(3) Applicability of environmental laws**

Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

**(b) Federal easements and rights-of-way****(1) Grant**

If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-