

Nothing in this section establishes a mandate or requirement that a State install or allow the installation of broadband infrastructure in a highway right-of-way. Nothing in this section authorizes the Secretary of Transportation to withhold or reserve funds or approval of a project under title 23.

(Pub. L. 115-141, div. P, title VI, §607, Mar. 23, 2018, 132 Stat. 1104.)

§ 1505. Unlicensed services in guard bands

(a) In general

After public notice and comment, and in consultation with the Assistant Secretary of Commerce for Communications and Information and the head of each affected Federal agency (or a designee thereof), with respect to frequencies allocated for Federal use, the Commission shall adopt rules that permit unlicensed services where feasible to use any frequencies that are designated as guard bands to protect frequencies allocated after March 23, 2018, by competitive bidding under section 309(j) of this title, including spectrum that acts as a duplex gap between transmit and receive frequencies.

(b) Limitation

The Commission may not permit any use of a guard band under this section that would cause harmful interference to a licensed service or a Federal service.

(c) Rule of construction

Nothing in this section shall be construed as limiting the Commission or the Assistant Secretary of Commerce for Communications and Information from otherwise making spectrum available for licensed or unlicensed use in any frequency band in addition to guard bands, including under section 1502 of this title, consistent with their statutory jurisdictions.

(Pub. L. 115-141, div. P, title VI, §611, Mar. 23, 2018, 132 Stat. 1109.)

§ 1506. Rulemaking related to partitioning or disaggregating licenses

(a) Definitions

In this section:

(1) Covered small carrier

The term “covered small carrier” means a carrier (as defined in section 153 of this title) that—

(A) has not more than 1,500 employees (as determined under section 121.106 of title 13, Code of Federal Regulations, or any successor thereto); and

(B) offers services using the facilities of the carrier.

(2) Rural area

The term “rural area” means any area other than—

(A) a city, town, or incorporated area that has a population of more than 20,000 inhabitants; or

(B) an urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants.

(b) Rulemaking

(1) In general

Not later than 1 year after March 23, 2018, the Commission shall initiate a rulemaking proceeding to assess whether to establish a program, or modify existing programs, under which a licensee that receives a license for the exclusive use of spectrum in a specific geographic area under section 301 of this title may partition or disaggregate the license by sale or long-term lease—

(A) in order to—

(i) provide services consistent with the license; and

(ii) make unused spectrum available to—
(I) an unaffiliated covered small carrier; or

(II) an unaffiliated carrier to serve a rural area; and

(B) if the Commission finds that such a program would promote—

(i) the availability of advanced telecommunications services in rural areas; or

(ii) spectrum availability for covered small carriers.

(2) Considerations

In conducting the rulemaking proceeding under paragraph (1), the Commission shall consider, with respect to the program proposed to be established under that paragraph—

(A) whether reduced performance requirements with respect to spectrum obtained through the program would facilitate deployment of advanced telecommunications services in the areas covered by the program;

(B) what conditions may be needed on transfers of spectrum under the program to allow covered small carriers that obtain spectrum under the program to build out the spectrum in a reasonable period of time;

(C) what incentives may be appropriate to encourage licensees to lease or sell spectrum, including—

(i) extending the term of a license granted under section 301 of this title; or

(ii) modifying performance requirements of the license relating to the leased or sold spectrum; and

(D) the administrative feasibility of—

(i) the incentives described in subparagraph (C); and

(ii) other incentives considered by the Commission that further the goals of this section.

(3) Forfeiture of spectrum

If a party fails to meet any build out requirements set by the Commission for any spectrum sold or leased under this section, the right to the spectrum shall be forfeited to the Commission unless the Commission finds that there is good cause for the failure of the party.

(4) Requirement

The Commission may offer a licensee incentives or reduced performance requirements under this section only if the Commission finds that doing so would likely result in in-