



PUBLIC NOTICE

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FCC ENFORCEMENT ADVISORY

TWO-WAY VHF/UHF RADIOS MAY NOT BE IMPORTED, ADVERTISED, OR SOLD IN THE UNITED STATES UNLESS THEY COMPLY WITH THE COMMISSION'S RULES

OPERATORS MUST ALSO COMPLY WITH FCC RULES

The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC) has observed that a growing number of conventional retailers and websites advertise and sell low-cost, two-way VHF/UHF radios that do not comply with the FCC's rules. Such devices are used primarily for short-distance, two-way voice communications and are frequently imported into the United States. These radios must be authorized by the FCC prior to being imported, advertised, sold, or operated in the United States.¹

Many of these radios violate one or more FCC technical requirements. For example, some can be modified to transmit on public safety and other land mobile channels for which they are not authorized, while others are capable of prohibited wideband operations.² Such radios are illegal, and many have the potential to negatively affect public safety, aviation, and other operations by Federal, state, and local agencies, as well as private users. Because these devices must be, but have not been, authorized by the FCC, the devices may not be imported into the United States, retailers may not advertise or sell them, and no one may use them. Rather, these devices may only be imported, advertised, sold, or used only if the FCC first has approved them under its equipment authorization process (or unless the devices operate *exclusively* on frequencies reserved for amateur licensees or they are intended for use exclusively by the federal government). Moreover, with only very limited exceptions, after being authorized, the devices may not be modified. Anyone importing, advertising or selling such noncompliant devices should stop

¹ 47 CFR § 2.803(b)(1). Importing, advertising and selling are three aspects of "marketing" under the Commission's rules. Specifically, marketing "includes [the] sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease." 47 CFR § 2.803(a).

² The maximum allowed operational bandwidth for such radios, with limited exceptions, is 12.5 kHz, which is considered "narrowband." See 47 CFR § 90.209(b)(5) n.3.

immediately, and anyone owning such devices should not use them. Violators may be subject to substantial monetary penalties.³

What Should You Know?

The Bureau has noted an increase in the manufacturing, importation, advertising, and sale of two-way VHF/UHF radios that are not authorized in accordance with the Commission's rules.⁴ Generally, electronic devices that intentionally emit radio waves are required to be certified by the FCC or an authorized third-party certification entity (Telecommunications Certification Body) prior to importation, advertising, sale, or use.⁵ Two-way VHF/UHF radios require FCC certification to show compliance with our rules, unless they qualify for a limited exception (see *Amateur Radio Exception*, below, and Federal government exception at footnote 4).

This certification requirement ensures that equipment complies with technical requirements to avoid causing interference to federal government operations, private licensed operations, and other authorized operations or equipment.⁶ **Equipment that does not comply with the technical requirements cannot be certified and thus cannot be imported, advertised, sold, or used.**⁷

Amateur Radio Exception. There is one exception to this certification requirement: if a device is capable of operating *only* on frequencies that the FCC has allocated for use by Amateur Radio Service licensees, it does not require FCC equipment authorization,⁸ and an amateur licensee may use his or her license to operate such radios. However, many two-way radios that purport to operate on amateur frequencies also operate on frequencies that extend beyond the designated amateur frequency bands.⁹ If a two-way

³ See, e.g., *Amcrest Industries, LLC, d/b/a Baofengradio.US*, Citation and Order, DA 18-801 (EB-SED Aug. 1, 2018) (issuing citation); *Pilot Travel Centers, L.L.C.*, Notice of Apparent Liability, 19 FCC Rcd 23113 (2004) (*Pilot NAL*), Order and Consent Decree, 21 FCC Rcd 5308 (2006) (\$90,000 settlement); *CB Shop & More, LLLP Loveland, Colorado*, Forfeiture Order, 23 FCC Rcd 4688 (EB-WR 2008) (imposing \$7,000 forfeiture); *Love's Travel Stops and Country Stores, Inc. Oklahoma City, Oklahoma*, Forfeiture Order, 21 FCC Rcd 10798 (EB-SCR 2006) (imposing \$25,000 forfeiture).

⁴ See, e.g., Letter from David Smith, President, and Mark Crosby, Secretary/Treasurer, Land Mobile Communications Council, to Michael O'Rielly, Commissioner, FCC at 2 (June 7, 2018) (stating that the "distribution of non-compliant radio devices . . . reaches 1,000,000 units annually."), <http://lmcc.org/wp-content/uploads/2018/06/LMCC-Letter-ORielly-re-NonComDev-060718.pdf>.

⁵ 47 CFR §§ 2.803, 2.805, 2.907, 15.201. The equipment authorization rules apply to the manufacture, import, sale, offer for sale, shipment or use of devices capable of emitting radio frequency energy. See 47 U.S.C. § 302a(b). These rules apply to all radio frequency equipment advertised or sold to non-Federal U.S. customers regardless of the equipment's origin, including equipment manufactured overseas and imported for subsequent sale to non-Federal U.S. customers or shipped directly from overseas to non-federal U.S. customers. These rules do not apply to equipment used by Federal Government agencies. See 47 U.S.C. § 302a(c), 47 CFR § 2.807(d).

⁶ 47 CFR §§ 2.907, 15.201.

⁷ Frequently, these devices are also not accompanied by required disclosures concerning FCC licensing requirements. See, e.g., 47 CFR § 95.653(b)(4). Marketing without these disclosures is also prohibited. 47 U.S.C. § 302a(b).

⁸ See, e.g., *Pilot NAL*, 19 FCC Rcd at 23114 ("[R]adio transmitting equipment that transmits *solely* on Amateur Radio Service ('ARS') frequencies is not subject to equipment authorization requirements prior to manufacture or marketing.") (emphasis added).

⁹ For example, the Bureau has observed two-way radios that apparently operate on frequencies 136-143 MHz, 400-419 MHz and/or 451-520 MHz, all of which are outside of the authorized amateur radio service bands. 47 CFR

VHF/UHF radio is capable of operating outside of the amateur frequency bands, it cannot be imported, advertised, sold, or operated within the United States without an FCC equipment certification.¹⁰

Even if a two-way VHF/UHF radio operates solely within the amateur frequencies, the operator is required to have an amateur license to operate the device and must otherwise comply with all applicable rules.¹¹ The Bureau will take very seriously any reports of failures of two-way radio operators to comply with all relevant rules and requirements when using devices in the amateur bands.

What Happens If Manufacturers, Retailers, or Operators Do Not Comply with the FCC's Rules?

Violators of the Commission's marketing rules may be subject to the penalties authorized by the Communications Act, including, but not limited to, substantial monetary fines (up to \$19,639 per day of marketing violations and up to \$147,290 for an ongoing violation).¹²

What Should You Do?

The FCC rules governing two-way VHF/UHF radios are designed to minimize interference to all authorized spectrum users, including important government and public safety operations. Manufacturers, importers, retailers, and radio operators should take the time to learn the FCC rules governing equipment authorization and comply with them. When manufacturing, importing, advertising or selling two-way radios and accessories that either are electronic or have electronic components, manufacturers, importers and marketers should ensure that such devices or components are properly certified and labeled as FCC-compliant and cannot be easily modified to operate outside its grant of certification.¹³ Prior to purchase or operation, individuals should ensure that a device is either labeled as FCC-compliant or operates solely within amateur frequencies.¹⁴

Need more information?

For additional information regarding equipment marketing and amateur radio rules, please visit the FCC website at <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization> and <https://www.fcc.gov/wireless/bureau-divisions/mobility-division/amateur-radio-service>, respectively. Media inquiries should be directed to Will Wiquist at (202) 418-0509 or will.wiquist@fcc.gov.

To file a complaint, visit <https://consumercomplaints.fcc.gov> or call 1-888-CALL-FCC.

§ 97.301(a) (listing amateur frequencies).

¹⁰ See, e.g., *New Generation Hobbies*, Citation, 26 FCC Rcd 9468, 9471 n.23 (EB 2011) (“[W]hile amateur radio service equipment is exempt from the FCC’s equipment certification requirement, it is a violation of the Commission’s regulations to market in the United States a transmitter that is designed or intended to operate on frequencies outside of the authorized amateur radio service bands if such equipment has not been issued a grant of equipment certification.”).

¹¹ See, e.g., 47 CFR §§ 97.5, 97.113, 97.215.

¹² See 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (b)(9) (reflecting adjustments for inflation).

¹³ A label indicating compliance may be located on the surface of the product, within a user-accessible non-detachable compartment (such as the battery compartment), on the packaging of the device, and/or within electronic menus if the device has an electronic display.

¹⁴ Moreover, any type of authorized equipment that requires a license should not be operated without the appropriate license. Many commercially-available two-way radios, depending on operational frequencies, require a license to operate. See, e.g., 47 CFR Part 95 (Personal Radio Services).

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TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-TELL-FCC (1-888-835-5322) for further information about the aviation radio rules.

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