



# PUBLIC NOTICE

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## FCC ENFORCEMENT ADVISORY

### FCC RULES PROHIBIT MARKETING, SALE, OR USE OF FISHING NET BUOYS THAT USE RADIO FREQUENCIES RESERVED FOR MARINE NAVIGATION SAFETY COMMUNICATIONS

The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC) has observed a proliferation in the use and marketing of noncompliant devices that operate on radio frequencies assigned to Automatic Identification Systems (AIS), which are authorized exclusively for marine navigation safety communications. The noncompliant devices causing the most trouble are advertised and operated to mark and track fishing nets – i.e., fishing net buoys. The FCC’s rules do not authorize AIS devices for such use. The use of noncompliant AIS devices is illegal and has the potential to disrupt important maritime communications, increasing the risk of accidents by creating confusion about whether an AIS signal represents a vessel that must be avoided.

**Anyone advertising or selling these noncompliant fishing net buoys or other noncompliant AIS devices should stop immediately, and anyone owning such devices should not use them. Sellers, advertisers, and operators of noncompliant AIS equipment may be subject to substantial monetary penalties.**

#### What Should You Know?

**What is AIS?** AIS is an important maritime navigation safety communications system intended to limit maritime accidents by automatically broadcasting and exchanging marine vessel information – including a vessel’s identity, type, position, course, speed, navigational status, and other safety-related information – between and among AIS-equipped shore stations, aircraft, and other vessels.<sup>1</sup> AIS also facilitates ship monitoring and tracking by the United States Coast

<sup>1</sup> See 33 CFR § 164.46(a); 47 CFR §§ 80.5, 80.393; United States Coast Guard Navigation Center, AIS Frequently Asked Questions, <https://www.navcen.uscg.gov/?pageName=AISFAQ> (AIS FAQ) (last visited Nov. 27, 2018). AIS is “a service specifically intended to enhance maritime domain awareness and navigational safety.” *Amendment of the Commission’s Rules Regarding Maritime Automatic Identification Systems et al.*, Report and Order and Further

Guard (Coast Guard) and other maritime authorities. The International Maritime Organization (IMO) and the Coast Guard require certain self-propelled cargo, passenger, and commercial vessels to carry AIS equipment.<sup>2</sup> FCC rules specify that AIS equipment may operate only over assigned frequencies 156.775 MHz, 156.825 MHz, 161.975 MHz, or 162.025 MHz (AIS frequencies).<sup>3</sup>

***AIS equipment must be certified.*** Equipment that uses AIS frequencies must be properly certified to ensure compliance with the FCC's technical rules.<sup>4</sup> This certification requirement ensures that equipment that intentionally emits radio waves complies with technical requirements to avoid interference with federal government operations, private licensed operations, and other authorized equipment.<sup>5</sup> AIS equipment that does not comply with the technical requirements cannot be certified and thus cannot be advertised, sold, or used.<sup>6</sup> Certified equipment is labeled with an FCC Identifier.<sup>7</sup>

The only devices currently authorized under the FCC's rules to use AIS frequencies are Class A and B shipborne equipment, AIS Search and Rescue Transmitters, and Maritime Survivor Locating Devices.<sup>8</sup> The FCC, with the concurrence of the Coast Guard, certifies these four types of AIS devices for compliance with applicable FCC, Coast Guard, and international

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Notice of Proposed Rule Making and Fourth Memorandum Opinion and Order, 21 FCC Rcd 8892, 8905, para. 18 (2006).

<sup>2</sup> See 33 CFR § 164.46(b)-(c). Generally, such vessels must install and operate Class A AIS shipborne equipment to satisfy this requirement; vessels not required to carry AIS equipment may use less expensive and robust Class B devices. See *Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems*, 23 FCC Rcd 13711, 13728, para. 27 (2008).

<sup>3</sup> 47 CFR §§ 80.5, 80.393.

<sup>4</sup> 47 CFR § 80.203 (requiring certification under the procedures in Part 2 for Part 80 maritime devices, including AIS devices); see also *id.* § 2.907 (general provision regarding certification). The general 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); 47 CFR §§ 2.803, 2.805. These rules apply to all radio frequency equipment advertised or sold to, or used by, non-Federal U.S. persons or entities 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).

<sup>5</sup> 47 CFR §§ 2.907, 80.203.

<sup>6</sup> 47 CFR §§ 2.803(b)(1), 2.805(a). Advertising and selling are two 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).

<sup>7</sup> 47 CFR §§ 2.925-2.926 (requiring an FCC Identifier for certified equipment). The label 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.

<sup>8</sup> See 47 CFR §§ 80.231-80.233, 80.275, 95.2989. In addition, the Commission has granted waivers authorizing the use of AIS position locating with Emergency Position Indicating Radio Beacons, which transmit distress signals on international satellite frequencies. See *Amendment of the Commission's Rules Regarding Maritime Radio Equipment and Related Matters*, Report and Order, 31 FCC Rcd 10300, 10303, para. 5 & n.16 (2016) (citing *McMurdo Group*, Order, 30 FCC Rcd 10634 (WTB 2015)).

requirements. Any other type of device that uses the AIS frequencies is likely not certified.<sup>9</sup> Any purported AIS device not certified in conformance with applicable requirements is noncompliant and could adversely impact maritime safety or harm authorized AIS devices.

Devices that operate in the AIS frequencies and are advertised to mark and track commercial and recreational fishing nets and other equipment are not certified and should not be used.<sup>10</sup> Such devices, which are often advertised as “AIS Fishing Net Buoys,” can transmit a vessel identification signal without essential navigational safety information. This can have a serious detrimental effect on maritime safety, hampering the situational awareness of maritime operators and endangering ships relying on AIS to avoid collisions and allisions at sea.

### **What Should You Do?**

Manufacturers, retailers, and importers of AIS equipment and other marine equipment should familiarize themselves with the FCC rules governing equipment authorization and ensure that they comply with them. If you discover you are advertising or selling AIS equipment that is not certified, you must stop doing so immediately.

Operators and users of purported AIS equipment should ensure that it is properly labeled as FCC-compliant when buying the equipment.<sup>11</sup> Certified AIS equipment will not be advertised to mark or track fishing net buoys or for other non-safety marine applications. If you have any doubt about the compliance of a device, you are advised to purchase another device.

Compliant maritime equipment intended for tracking fishing nets is authorized to operate in the 1900-2000 kHz band, not the AIS frequencies.<sup>12</sup> These devices will not be advertised as AIS equipment.

### **What Happens If Manufacturers, Retailers, Importers, or Operators Do Not Comply with the FCC’s Rules?**

Violators of the Commission’s marketing and operating 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 for marketing violations and up to \$147,290 for an ongoing violation).<sup>13</sup>

### **Need more information?**

For additional information regarding equipment marketing rules, please visit the FCC website at <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization>. Media inquiries should be directed to Will Wiquist at (202) 418-0509 or [will.wiquist@fcc.gov](mailto:will.wiquist@fcc.gov).

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<sup>9</sup> For example, a device that uses AIS frequencies but does not transmit vessel information because it is not attached to a vessel would not be compliant, as it does not meet the definition of AIS. 47 CFR § 80.5.

<sup>10</sup> Generally, devices should not be operated prior to obtaining an authorization. *See* 47 CFR § 2.805(a). Even a properly certified AIS device should not be used for fishing net buoys because the intended purpose of AIS is vessel safety or personal rescue. *See supra* note 1.

<sup>11</sup> As noted above, compliant devices will have an FCC Identifier that can be checked in the FCC database to ensure the device is properly certified. Federal Communications Commission, *FCC ID Search*, <https://www.fcc.gov/oet/ea/fccid>.

<sup>12</sup> *See* 47 CFR § 80.376.

<sup>13</sup> *See* 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (b)(9) (reflecting adjustments for inflation).

The Commission has previously warned about using inaccurate identifiers with maritime equipment. *Enforcement Bureau Reminds Mariners of Marine Radio Rules Protecting Public Safety*, Enforcement Advisory No. 2016-04, 31 FCC Rcd 4600 (EB 2016), available at <https://docs.fcc.gov/public/attachments/DA-16-513A1.pdf>.

The U.S. Coast Guard provides its own guidance on AIS and AIS equipment on its website. U.S. Coast Guard, *AIS Frequently Asked Questions*, available at <https://www.navcen.uscg.gov/?pageName=AISFAQ>.

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

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its 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.

Issued by: Chief, Enforcement Bureau