Dated: July 24, 2023.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 14

**[CG Docket Nos. 23–161, 10–213, 03–123; FCC 23–50; FR ID 156546]**

### Access to Video Conferencing

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) revisits the interpretation of a statutory term, *interoperable video conferencing service (IVCS).* Finding no persuasive reason to modify or limit the scope of the statutory definition of this term, the Commission declines to revise its definition of IVCS, and concludes that its accessibility rules for advanced communications services and equipment apply to all services and equipment that meet the statutory definition of IVCS.

**DATES:**

*Effective date:* This ruling is effective August 31, 2023.

*Compliance date:* The Commission sets the date for compliance with IVCS rules in part 14 of the Commission's rules as initially adopted at 76 FR 82354 (Dec. 30, 2011) and 77 FR 24632 (April 25, 2012) as September 3, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ike Ofobike, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202–418–1028, or *Ike.Ofobike@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, document FCC 23–50, adopted on June 8, 2023, released on June 12, 2023, in CG Docket Nos. 23–161, 10–213, and 03–123. The Commission previously sought comment on the issue in a Further Notice of Proposed Rulemaking, published at 76 FR 82240, December 30, 2011, and a Public Notice, published at 87 FR 30442, May 19, 2022. The full text of document FCC 23–50 is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

## Synopsis

### Background

1. Since the March 2020 outbreak of the COVID–19 pandemic in the United States, video conferencing has grown from a niche product to a central pillar of our communications infrastructure. The new social interaction paradigm occasioned by the pandemic appears to have permanently altered the norms of modern communication in the workplace, healthcare, education, social interaction, civic life, and more. For millions of Americans, video conferencing has become a mainstay of their business and personal lives. With the growing use of video conferencing has come heightened concern about accessibility. In recent years, various accessibility features have been introduced by a number of video conferencing providers. However, the accessibility of video conferencing services remains limited for many users.

2. Under the Twenty-First Century Communications and Video Accessibility Act (CVAA), enacted in 2010, providers of advanced communications services (ACS) and manufacturers of equipment used for ACS must make such services and equipment accessible to and usable by people with disabilities, unless these requirements are not achievable. 47 U.S.C. 617(a)(1), (b)(1). Service providers and manufacturers may comply with section 716 of the Act either by building accessibility features into their services and equipment or by using third-party applications, peripheral devices, software, hardware, or customer premises equipment (CPE) that are available to individuals with disabilities at nominal cost. 47 U.S.C. 617(a)(2), (b)(2). If accessibility is not achievable through either of these means, then manufacturers and service providers must make their products and services compatible with existing peripheral devices or specialized CPE commonly used by people with disabilities to achieve access, subject to the achievability standard. 47 U.S.C. 617(c).

3. The Act defines *advanced communications services* as: (1) interconnected VoIP service; (2) non-interconnected VoIP service; (3) electronic messaging service; (4) interoperable video conferencing service; and (5) any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used. 47 U.S.C. 153(1). *Interoperable video conferencing service,* in turn, is defined as a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing. 47 U.S.C. 153(27).

4. In adopting rules to implement section 716 of the Act, the Commission incorporated without change the statutory definitions of ACS and the four then-existing types of ACS, including interoperable video conferencing service. 47 CFR 14.10(m). However, in that 2011 rulemaking a question was raised as to what Congress meant by including the word *interoperable* as part of the term *interoperable video conferencing service.* Agreeing with some commenters that the word ''cannot be read out of the statute,'' the Commission found that the record before it was insufficient to decide the correct interpretation, and sought further comment on the issue. *Implementing the Provisions of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010,* Final Rule, published at 76 FR 82353, 82358, December 30, 2011; Proposed Rule, published at 76 FR 82240, 82245–46, December 30, 2011.

5. Based on the record at that time, the Commission specifically invited comment on the following three possible definitions of the word *interoperable* as used in this context: able to function inter-platform, inter-network, and inter-provider; having published or otherwise agreed-upon standards that allow for manufacturers or service providers to develop products or services that operate with other equipment or services operating pursuant to the standards; or able to connect users among different video conferencing services, including video relay service (VRS). Commenters did not reach consensus on any of the three suggested alternatives.

6. Recently, the Commission refreshed the record on this matter. First, in April 2021, the Consumer and Governmental Affairs, Media, and Wireless Telecommunications Bureaus issued a joint Public Notice seeking comment generally on whether any updates were needed to the Commission's rules implementing the CVAA and inviting stakeholders to provide input on aspects of the Commission's CVAA implementation that are working well, on specific areas in which commenters believe improvements are needed, and on requirements that may not be serving

their intended purpose or have been overtaken by new technologies. Some of the comments responding to the 2021 Public Notice specifically addressed the interpretation of the term *interoperable video conferencing service.* The Accessibility Advocacy and Research Organizations (AARO), for example, urged the Commission to simply clarify that the statutory definition of *interoperable video conferencing service,* as *a service that uses real-time video communications, including audio, to enable users to share information of the user's choosing,* is an exhaustive articulation of what Congress intended to be covered.

7. Next, on April 27, 2022, the Commission's Consumer and Governmental Affairs Bureau (CGB or Bureau) released a Public Notice specifically inviting additional comment on the questions originally posed in 2011 as to the meaning of *interoperable video conferencing service. Interoperable Video Conferencing Service,* published at 87 FR 30442, May 19, 2022. The Bureau also invited commenters to submit additional relevant information about what types of services are currently available in the video conferencing marketplace, the kinds of interoperability they currently offer, and how such developments may assist in reaching an interpretation of *interoperable video conferencing service* that is consistent with the intent of Congress in enacting the CVAA. The Commission also sought comment on how consumers access video conferencing services, whether various components of such services are accessible and usable, and any other developments that the Commission should consider in resolving this issue. Eight entities filed comments in response to the 2022 Public Notice; seven filed reply comments.

**Definition of Interoperable Video Conferencing Service**

8. The rapid growth of video conferencing underscores the need to resolve lingering uncertainty as to the application of the Commission's accessibility rules in this area. The social shift born of the pandemic has altered the norms of modern communication. The record, other relevant FCC documents, and public sources indicate that substantial barriers to effective communication remain for many people with disabilities. As video conferencing becomes further entrenched as an essential means of communication, it is of critical importance to resolve the extent to which these services are covered by section 716 of the Act and the Commission's accessibility rules. In the absence of clarity, service providers are left uncertain as to their obligations, and consumers face an inconsistent patchwork of accessibility features that limit their ability to reliably achieve effective communication.

9. In light of these changed circumstances, and taking into account comments in the record, the Commission revisits its previously stated views regarding the interpretation of the statutory term *interoperable video conferencing service.* The Act defines *interoperable video conferencing service* as a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing. 47 U.S.C. 153(27). The Commission finds no persuasive reason to modify or limit the scope of the statutory definition of this term. Therefore, it declines to revise part 14 of the Commission's rules, which incorporates the statutory definition, and concludes that part 14 applies to all services and equipment that provide real-time video communications, including audio, to enable users to share information of the user's choosing.

10. By its terms, the statutory definition of *interoperable video conferencing service* encompasses a variety of video communication services that are commonly used today, or that may be used in the future, to enable two or more users to share information with one another. In 2011, the Commission interpreted a qualifying phrase in the definition—''to enable users to share information of the user's choosing''—to mean that services ''providing real-time video communications, including audio, *between two or more users*'' would be included, ''even if they can also be used for video broadcasting purposes (*only from one user*).'' 76 FR 82354, December 30, 2011 (emphasis in original). However, a service that provides real-time video and audio communications ''*only from one user*'' (*i.e.,* ''video broadcasting'') would not meet the definition of *interoperable video conferencing service.* (Emphasis in original.)

11. Nothing in the definition suggests that it is limited to services that are only suitable for particular kinds of users—*e.g.,* professional users who need a wide selection of features and tools to conduct online meetings, or casual users who want to have spontaneous video conversations with friends. The definition also does not indicate an intention to exclude any service based on whether it is used primarily for point-to-point or multi-point conversations, or based on the type of device used to access the service. Similarly, based on the wording of this definition, its application does not depend on the options offered to users for connecting to a video conference (*e.g.,* through a dial-up telephone connection or by broadband, through a downloadable app or a web browser), what operating systems or browsers their devices may use, whether the service works with more than one operating system, or whether the service may be classified as offered to the public or to a private group of users (such as a telehealth platform). What matters is that two or more people can use the service to share information with one another in real-time, via video.

12. Narrowing the scope of the part 14 rules to a more limited class of services by importing the Commission's own definition of *interoperable* would bring those rules into conflict with the definition mandated by Congress. In terms of the Commission's codified rules, this conclusion maintains the status quo, as the statutory definition of *interoperable video conferencing service* has been incorporated in the Commission's rules for more than a decade.

13. While the Commission stated in 2011 that it must determine the meaning of *interoperable* in the context of the statute, in light of the further comments received the Commission concludes that, as the Supreme Court has repeatedly held, when a statute includes an explicit definition, that definition must be followed, even if it varies from a term's ordinary meaning. Here the interpretation of the statutory term has already been given by the statutory definition: IVCS is a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing. Because that definition does not include the word *interoperable,* it is unnecessary to construe that word separately in this context. In cases of circularity—where the statutory term and the statutory definition of that term include a common word—it might be appropriate for an agency to interpret the common word. That is not the case here because *interoperable* does not appear in the statutory definition.

14. The legislative history of the CVAA also supports the conclusion that the Commission may rely on the statutory definition of *interoperable video conferencing service* without further elaboration on the word *interoperable.* As the Commission noted in 2011, early versions of the legislation used the term *video conferencing service,* without the word *interoperable.*

The term was left unchanged in the House of Representatives committee report on H.R. 3101, released in July 2010. However, in the Senate report on S. 3304, released in December 2010, the Senate Committee on Commerce, Science, and Transportation added the word *interoperable* to *video conferencing service.* The Commission has found nothing in the legislative history of the CVAA to explain why the word was added, or what that change was meant to communicate, if anything. The interpretation of statutes cannot safely be made to rest upon mute intermediate legislative maneuvers. *Trailmobile Co.* v. *Whirls,* 331 U.S. 40, 61 (1947).

15. Additionally, nothing in the legislative history suggests that Congress intended for the insertion of *interoperable* in the defined term to change the draft bill's existing definition of *video conferencing service.* The definition remained the same in all versions, even when the term it was defining metamorphosed without explanation. This compels the Commission to conclude that, whatever reason the Senate Committee may have had for altering the term used to describe the service, there was no intent to alter the definition of that term or to require separate interpretation of any word within that defined term. As the D.C. Circuit noted in 1982, courts must:

> exercise caution before drawing inferences regarding legislative intent from changes made in committee without explanation. . . . amendments to a bill's language are frequently latent with ambiguity; they may either evidence a substantive change in legislative design or simply a better means for expressing a provision in the original bill.

*Western Coal Traffic League* v. *U.S.,* 677 F.2d 915, 924 (D.C. Cir. 1982).

16. Some commenters also stress that the Commission should not use this proceeding to mandate that video conferencing services be interoperable. That is a different question, which the Commission settled in 2011: There is no language in the CVAA supporting the view that interoperability is required or should be required as a subset of accessibility, usability, or compatibility. 76 FR 82354, December 30, 2011. The Commission sees no need to revisit that question.

17. *Alternative Suggested Definitions.* The Commission finds unpersuasive the alternative definitions of *interoperable video conferencing service* that various commenters proffer in lieu of the statutory definition. The Consumer Technology Association (CTA) continues to advocate a proposal advanced in 2011: that covered services be limited to those that have the ability to operate among different platforms, networks and providers without special effort or modification by the end user. At that time, the Commission expressed concern that this proposed definition would exclude virtually all existing video conferencing services and equipment from the accessibility requirements of section 716 of the Act, which it believes would be contrary to congressional intent. 76 FR 82240, December 30, 2011. In its 2022 comments, citing the development of standards that improve interoperability, CTA suggested that its proposed definition would include a number of commonly used video services such as Webex, Google Meet, and BlueJeans by Verizon. However, CTA emphasizes that its approach will ensure that only the subset of video conferencing services that are genuinely interoperable is covered under section 716.

18. CTIA suggests a modified version of this formulation that would limit covered services to those that can function inter-platform and inter-network. By contrast with CTA's proposed definition, CTIA's proposal would define *interoperable video conferencing services* to include services that are interoperable inter-platform and inter-network but that are *not* interoperable between different providers. Under CTIA's proposal, *inter-platform* refers to the ability of a user to access a video conferencing service on multiple software platforms and operating systems, such as Google Android, Apple iOS, and Microsoft Windows, and *inter-network* refers to the ability of a user to access a video conferencing service via the internet and on data networks, such as through a broadband connection like 4G LTE or 5G. According to CTIA, this definition reflects the video conferencing market today, which likely means the most widely used services today would be covered by the Commission's ACS rules. Nonetheless, like CTA, CTIA acknowledges that its interpretation would narrow covered services to a smaller group than those fitting under the statutory definition. The American Council of the Blind (ACB) and American Foundation for the Blind (AFB) state that vertically integrated services such as Apple Facetime would likely not meet CTIA's narrow definition of IVCS.

19. The fundamental defect of these proposed alternatives is that they substantially alter the definition of *interoperable video conferencing service* provided by Congress. Supporters of alternative definitions fail to show how their proposed approaches, which they acknowledge are less inclusive than the statutory definition, could be harmonized with Congress's definition. Instead, CTA and CTIA argue that relying on the statutory definition would render the word *interoperable* superfluous, effectively reading the word out of the statute.

20. The Commission rejects CTA and CTIA's argument because it is far from clear that *interoperable* is superfluous. For instance, information sharing cannot take place at all without some degree of interoperability between the devices or software that each sharing user operates. The inclusion of the word *interoperable* in the term *interoperable video conferencing service* may simply reflect the fact that any video service satisfying that definition—*i.e.,* any real-time video communication service that enable[s] users to share information of the user's choosing—necessarily involves some level of interoperability among the particular devices and software employed by users of that service.

21. In any event, while the Commission should construe statutes, *where possible,* so as to avoid rendering superfluous any parts thereof, *Astoria Fed. Sav. & Loan Ass'n* v. *Solimino,* 501 U.S. 104, 112 (1991), it is not always possible to do so, given the imperfections of the legislative process. Further, the Commission must also read the text harmoniously. Accordingly, interpretations that result in irreconcilable internal discord must be rejected. In this instance, as the proponents agree, their interpretive attempts to give independent meaning to the word *interoperable* are inconsistent with the statutory definition. Therefore, the Commission must conclude that it is not possible to interpret *interoperable* in the way that these commenters request.

22. *Administrative Procedure Act Notice.* The Commission also concludes that it has provided adequate notice in this proceeding that it could arrive at the decision it reaches today. The 2022 Public Notice, which was published in the **Federal Register**, invited the public to file additional comments on the questions posed in 2011 regarding the meaning of the term *interoperable* in the context of video conferencing services and equipment. In the very next sentence, the 2022 Public Notice made direct reference to a recent filing by AARO proposing that the Commission apply the statutory definition. The 2022 Public Notice also specifically invited commenters to suggest additional alternatives or other types of input on how to interpret the word *interoperable* beyond the three approaches suggested

by the Commission in 2011. 87 FR 30444, May 19, 2022. The 2022 Public Notice thus provided ample indication that the interpretive question could have a broader range of outcomes than those specifically suggested in 2011.

23. Even assuming, *arguendo,* that notice was lacking, the Commission finds no conflict with the Administrative Procedure Act. Contrary to the arguments of several commenters, it is procedurally proper for the Commission to conclude that *interoperable video conferencing service* has the meaning given by the statutory definition. The Commission is not adopting or amending any substantive rule. Therefore, the notice-and-comment requirements of the Administrative Procedure Act (APA) are not implicated by any action taken here. The Commission is simply revisiting its 2011 assertion of a perceived need to resolve, through further interpretation, the correct interpretation of the word *interoperable.* At most that assertion was an interpretive rule, and hence prior notice was not required to revisit that interpretation. The Supreme Court has confirmed that the adoption or modification of interpretive rules occurs outside the APA's notice-and-comment requirements. *Perez* v. *Mortgage Bankers Ass'n,* 575 U.S. 92, 96 (2015).

24. Given the extended pendency of questions regarding the application of these requirements to video conferencing, the Commission recognizes that some service providers may need additional time to fully comply with the Report and Order. For that reason, the Commission extends the date for compliance with the part 14 video conferencing service rules until September 3, 2024. The Commission directs the Consumer and Governmental Affairs Bureau to announce the compliance date by subsequent Public Notice.

**Final Regulatory Flexibility Analysis**

25. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605(b). In document FCC 23–50, the Commission declines to adopt rule changes and therefore a Final Regulatory Flexibility Analysis has not been performed.

**Ordering Clauses**

26. Pursuant to sections 1, 2, 3, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 153, 617, the foregoing Report and Order *is adopted.*

**Congressional Review Act**

27. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission sent a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

**Final Paperwork Reduction Act of 1995 Analysis**

28. The *Report and Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2023–15686 Filed 7–31–23; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

### 49 CFR Parts 192 and 195

**[Docket No. PHMSA–2013–0255; Amdt. Nos. 192–134, 195–106]**

**RIN 2137–AF06**

## Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards: Technical Corrections

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Correcting amendments.

**SUMMARY:** PHMSA is issuing editorial and technical corrections clarifying the regulations promulgated in its April 8, 2022, final rule titled ''Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards'' for certain gas, hazardous liquid, and carbon dioxide pipelines. The final rule also codifies the results of judicial review of that final rule.

**DATES:** These corrections are effective as of August 1, 2023.

**FOR FURTHER INFORMATION CONTACT:**

*Technical questions:* Steve Nanney, Senior Technical Advisor, by telephone at 713–272–2855.

*General information:* Robert Jagger, Senior Transportation Specialist, by email at *robert.jagger@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Corrections**

On April 8, 2022, PHMSA published a final rule titled ''Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards'' [1] (final rule) amending the Federal Pipeline Safety Regulations (49 CFR parts 190 through 199) to, among other provisions, require the installation of rupture-mitigation valves (RMV) or alternative equivalent technologies and establish minimum performance standards for the operation of those valves to mitigate the public safety and environmental consequences of pipeline ruptures. The final rule became effective on October 5, 2022. This document identifies several editorial and technical corrections clarifying those regulations, as set forth below.

The final rule added a new § 192.179(e) requiring the installation of rupture-mitigation valves (RMV) on certain onshore gas pipeline segments 6 inches or greater in diameter. The paragraph included an exemption for those pipelines in Class 1 or Class 2 locations where the potential impact radius (PIR) of the pipeline is 150 feet or less. However, a comma was inadvertently left in between ''Class 1'' and ''or Class 2 locations,'' which led some readers to interpret that all pipelines in Class 1 locations were exempt from the RMV installation requirements, in addition to those pipelines in Class 2 locations with a PIR of 150 feet or less. As the preamble of the final rule explains (see, *e.g.,* 87 FR 20942, 20972), the exemption was meant to apply to pipelines with a PIR of 150 feet or less in either Class 1 locations or Class 2 locations. Therefore, PHMSA is correcting that regulatory text in this document by removing the comma, restructuring the sentence for clarity, and adding ''either'' before the reference to Class 1 and Class 2. PHMSA is also making a conforming change to § 192.179(f), which contained similar language and will reflect the same regulatory intent.

Additionally, PHMSA is also correcting § 192.179(e) and (f) by removing a potentially confusing cross-

[1] 87 FR 20940 (Apr. 8, 2022).