

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket Nos. 10-51 and 03-123; DA 16-893]

### Structure and Practices of the Video Relay Service Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission), pursuant to a delegation of authority, proposes to incorporate into the Commission's rules the Video Relay Service (VRS) interoperability and portability standards developed by the VRS Task Group of the Session Initiation Protocol (SIP) Forum and a successor group, the Relay User Equipment (RUE) Forum.

**DATES:** Comments are due on or before September 14, 2016.

**ADDRESSES:** You may submit comments, identified by CG Docket Nos. 10-51 and 03-123, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>. Filers should follow the instructions provided on the Commission's Web site for submitting comments. For ECFS filers, in completing the transmittal screens, filers should include their full name, U.S. Postal Service mailing address, and CG Docket Nos. 10-51 and 03-123.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for

each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Eliot Greenwald, Consumer and Governmental Affairs Bureau, at phone: (202) 418-2235 or email:

[Eliot.Greenwald@fcc.gov](mailto:Eliot.Greenwald@fcc.gov), or Robert Aldrich, Consumer and Governmental Affairs Bureau, at phone (202) 418-0996 or email: [Robert.Aldrich@fcc.gov](mailto:Robert.Aldrich@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (*Further Notice*), document DA 16-893, adopted on August 4, 2016, and released on August 4, 2016. The full text of this document is available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. This document can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/general/disability-rights-office-headlines>. The proceeding initiated by the Further Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons

attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (844) 432-2275 (videophone), or (202) 418-0432 (TTY).

### Initial Paperwork Reduction Act of 1995 Analysis

The Further Notice does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

### Synopsis

1. In 2013, the Commission amended its rules to improve the effectiveness of its interoperability and portability rules for video relay service (VRS), in order to improve functional equivalence and VRS availability for consumers, ease of compliance by providers, and overall efficiency in the operation of the

telecommunications (TRS) program. The Commission directed Commission staff to support and participate in the ongoing Session Initiation Protocol (SIP) Forum's VRS Task Group process in order to ensure the timely development of such consensus standards. *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, published at 78 FR 40582, July 5, 2013 (*VRS Reform Order*).

2. The Further Notice, issued by CGB pursuant to a delegation of authority in the *VRS Reform Order*, proposes to incorporate by reference into the Commission's VRS interoperability rule the interoperability and portability standards produced by the VRS Task Group of the SIP Forum and a successor group, the Relay User Equipment (RUE) Forum, along with a process that will readily enable revisions to this rule to reflect future amendments or changes in these standards. In addition, this document proposes guidance on implementation of the standards, including the need for a transition period for existing VRS access technologies to achieve interoperability and portability.

3. Since 2006, the Commission has required VRS providers to (i) allow VRS users to make and receive calls through any VRS provider, and to choose a different default provider, without changing the VRS access technology they use to place calls, and (ii) ensure that VRS users can make point-to-point calls to all other VRS users, irrespective of the default provider of the calling and called party. Providers also must ensure that videophone equipment that they distribute retains certain features when a user ports his or her ten-digit VRS number to a new default provider. 47 CFR 64.611(e); *VRS Reform Order*.

4. In order to improve the effectiveness of these interoperability and portability requirements, the Commission delegated "to the Chief of CGB, after consultation with the CTO [Chief Technology Officer] and the Chief of OET [Office of Engineering and Technology], the authority to conduct rulemaking proceedings to incorporate into the Commission's rules by reference any interoperability and portability standards developed under the auspices of the SIP Forum, now or in future, or such other voluntary, consensus standard organization as may be formed to address these issues." *VRS Reform Order*. The *VRS Reform Order* further provided: "Recognizing that the scope of the SIP Forum VRS Task Group charter extends beyond the Commission's current mandatory

minimum standards, the Commission also delegates to Chief of CGB, after consultation with the CTO and the Chief of OET, the authority to conduct rulemaking proceedings to incorporate into the Commission's rules by reference as new or updated mandatory minimum standards any standards or recommended standards developed by the SIP Forum (or such other voluntary, consensus standard organization as may be formed to address these issues) that the Chief of CGB finds will advance the statutory functional equivalency mandate or improve the availability of TRS, in the most efficient manner. In conducting such rulemakings, the Chief of CGB shall provide guidance on implementation, including the need for a transition period for existing VRS access technologies, complaint resolution, or other actions necessary to ensure full interoperability and portability."

5. In August 2015, the SIP Forum published the Video Relay Service (VRS) Provider Interoperability Profile (VRS Provider Interoperability Profile), a consensus document developed by the SIP Forum's VRS Task Group. The VRS Provider Interoperability Profile provides technical specifications for the interface between VRS providers and the interface between a VRS provider and the TRS Numbering Directory. In July 2016, the Relay User Equipment Forum (RUE Forum) published a second consensus document, the Interoperability Profile for Relay User Equipment (RUE Profile) on the Internet Engineering Task Force (IETF) Web site. The RUE Profile provides technical specifications that define a standard interface between a relay user's equipment and the services offered by relay service providers.

6. The Bureau tentatively concludes that the VRS Provider Interoperability Profile and the RUE Profile will effectively meet the Commission's goals of ensuring interoperability and portability, as required by the *VRS Reform Order*. Specifically, these standards will enable a VRS user to place and receive calls through any VRS provider and make point-to-point calls to all other VRS users, irrespective of the default provider of the parties to the call, and without the caller having to change the VRS access technology used to make such calls. Additionally, as required by the *VRS Reform Order*, these standards will support a standard data interchange format for exporting and importing private data contained in a user's personal contacts list (also referred to as an address book) and the user's speed dial list between the VRS user's access technology and the access

technology of other VRS providers. In these various ways, these standards will "advance the statutory functional equivalency mandate [and] improve the availability of TRS, in the most efficient manner," in accordance with the *VRS Reform Order*. The Bureau further notes that all current VRS providers participated in the process leading to adoption of the standards, and that all providers appear to have reached a consensus on these standards. For all of these reasons, the Bureau tentatively concludes that these standards meet the Commission's objective of facilitating interoperability and portability for VRS, and should be incorporated by reference into the Commission's rules. The Bureau seeks comment on this tentative conclusion and its rationale. The Bureau also seeks comment on whether any modified version of the standards that results from the continued work of the RUE Forum, which is published subsequent to the Commission's release of the Further Notice and during the pendency of this proceeding, should be adopted in lieu of the versions of the standards discussed above.

7. The Bureau also proposes to follow, in the future, a procedure that permits amendments or changes to the standards to be incorporated into the Commission's rules in a timely and efficient manner. The Bureau believes that a voluntary, consensus standards process that results in amendments or changes to the standards will, as is the case for the standards proposed for incorporation herein, allow for widespread participation by the affected parties, and in particular VRS providers. In the event of such amendments or changes, the Bureau will issue a public notice seeking comment on such modifications, followed by an order incorporating into the VRS rules amendments or changes by reference if justified based on the resulting record. When such revised standards are completed and accepted by the Bureau, a second public notice will be issued containing information on how to access the modified standards and establishing an implementation schedule. To facilitate ready access to such standards, the Bureau further proposes that the Commission make them available to the public online. The Bureau believes that this process will allow interested parties to have the opportunity to participate in the standards-setting process, comment on the inclusion of such standards in the Commission's rules, and receive notice about the implementation of any amendments or changes to the standards. The Bureau seeks comment

on this approach and on any alternatives.

8. As to the timing of the implementation of the recently developed standards, the Bureau believes that insofar as all current VRS providers participated in developing these standards and had an opportunity to debate the various technical issues over a period of several years, as a practical matter, all providers have become familiar with the content of the standards, have had ample opportunity to incorporate the standards into their software development processes, and have had sufficient opportunity to familiarize their suppliers with any necessary design changes. The Bureau therefore proposes that the rule amendment incorporating the standards into 47 CFR 64.621 shall become effective 60 days after publication in the **Federal Register** of the amended rule. The Bureau seeks comment on this proposed implementation schedule. To the extent that any commenter seeks a later effective date, the Bureau requests that such commenter describe the specific products or features and functions for which a later effective date is needed and the reasons why compliance is not achievable at an earlier date.

9. As the Commission contemplated in the *VRS Reform Order*, once incorporated into the Commission's rules, compliance with the standards "shall be a prerequisite for compensation from the Fund. No VRS provider shall be compensated for minutes of use generated by non-standards compliant VRS access technologies or otherwise generated in a manner inconsistent with the Commission's rules. If a provider cannot reliably separate minutes of use generated through standards compliant VRS access technologies from those generated through non-standards compliant VRS access technologies, the provider will not receive compensation for any of the minutes." *VRS Reform Order*.

10. The Office of Federal Register (OFR) recently revised its regulations to require that agencies must discuss in the preamble of a proposed rule ways that the materials the agency proposes to incorporate by reference are reasonably available to interested parties or how it worked to make those materials reasonably available to interested parties. In addition, the preamble of the proposed rule must summarize the material. 1 CFR 51.5(a). In accordance with OFR's requirements, the discussion in the following two paragraphs summarizes and indicates the availability of the VRS Provider

Interoperability Profile and the RUE Profile.

11. The U.S. Video Relay Service (VRS) Provider Interoperability Profile, Version 15, SIP Forum Document Number: VRS U.S. Providers Profile TWG-6-0.15 (Sept. 23, 2015) (VRS Provider Interoperability Profile), is available from SIP Forum LLC, 733 Turnpike Street, Suite 192, North Andover, MA 01845 USA, (203) 829-6307, at [http://www.sipforum.org/component/option,com\\_docman/task,cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option,com_docman/task,cat_view/gid,160/Itemid,75/). The Provider Interoperability Profile provides technical specifications for the interface between VRS providers and the interface between a VRS provider and the TRS Numbering Directory.

12. The Interoperability Profile for Relay User Equipment, draft-vrs-rue-dispatch-00 (July 20, 2016) (RUE Profile), is available from IETF Secretariat, 5177 Brandin Court, Fremont, CA 94538, 510-492-4080, at <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>. The RUE Profile provides technical specifications that define a standard interface between a relay user's equipment and the services offered by relay service providers.

#### Initial Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act (RFA), the Bureau has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the Further Notice.

14. *Need For, and Objectives of, the Proposed Rules.* In the *VRS Reform Order*, the Commission strongly encouraged the continuation of efforts by the SIP Forum's VRS Task Group to develop voluntary, consensus standards to facilitate interoperability and portability of VRS and directed Commission staff to support and participate in the SIP Forum process. The SIP Forum and a successor group, the RUE Forum, have now produced interoperability and portability standards, making it possible to achieve the improvements sought in the *VRS Reform Order*. The Further Notice proposes to incorporate those interoperability and portability standards by reference into 47 CFR 64.621, the Commission's VRS interoperability rule, along with guidance on implementation, including the need for a transition period for existing VRS access technologies to

achieve interoperability and portability. In addition, the Further Notice proposes a process that will readily enable revisions to this rule to reflect future amendments or changes in these standards by issuing a public notice seeking comment on such modifications, followed by an order incorporating into the VRS rules amendments or changes by reference if justified based on the resulting record, after which a second public notice will be issued containing information on how to access the modified standards online and establishing an implementation schedule.

15. *Legal Basis.* The legal basis for any action that may be taken pursuant to the Further Notice is contained in 47 U.S.C. 151, 152, 154(i), 154(j), 225, 303(r).

16. *Types of Small Entities to Which the Proposed Rules May Apply.* All Other Telecommunications.

17. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* If the Commission were to incorporate the SIP Forum and RUE Forum standards by reference into the Commission's VRS interoperability rule and provide guidance on implementation, VRS providers, including small entities, would need to take steps to comply with such standards.

18. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* In general, alternatives to proposed rules are discussed only when those rules pose a significant adverse economic impact on small entities. In this context, however, the proposed rules generally confer benefits. In particular, interoperability requirements benefit the smaller providers because consumers find the services of smaller providers to be more attractive when these services are interoperable than when they are not interoperable. These benefits outweigh any burdens associated with compliance. Moreover, because all of the VRS providers participated in the discussions associated with the development of the standards, the Commission believes that these standards are acceptable to all VRS providers, including small entities. Lastly, the Further Notice seeks comment on the proposed implementation schedule to ensure that such implementation schedule is achievable.

19. *Federal Rules that May Duplicate, Overlap, or Conflict with Proposed Rules.* None.

#### List of Subjects in 47 CFR Part 64

Telecommunications relay services, Individuals with disabilities.

Federal Communications Commission.

**Karen Peltz Strauss,**

*Deputy Chief, Consumer and Governmental Affairs Bureau.*

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

## **PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, and 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, unless otherwise noted.

■ 2. Amend § 64.621 by revising paragraph (b) to read as follows:

### **§ 64.621 Interoperability and portability.**

\* \* \* \* \*

(b) *Technical Standard for Interoperability and Portability.*

(1) VRS providers shall ensure that their provision of VRS and video communications, including their access technology, meets the requirements of the U.S. Video Relay Service (VRS) Provider Interoperability Profile Version 15, SIP Forum Document Number: VRS U.S. Providers Profile TWG–6–0.15 (Sept. 23, 2015) (VRS Provider Interoperability Profile), [http://www.sipforum.org/component/option,com\\_docman/task,cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option,com_docman/task,cat_view/gid,160/Itemid,75/), and the Interoperability Profile for Relay User Equipment (RUE Profile), draft-vrs-rue-dispatch-00 (July 20, 2016), <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>.

(2) This incorporation by reference of the VRS Provider Interoperability Profile and the RUE Profile was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the VRS Provider Interoperability Profile may be obtained from SIP Forum LLC, 733 Turnpike Street, Suite 192, North Andover, MA 01845 U.S.A., (203) 829–6307, at [http://www.sipforum.org/component/option,com\\_docman/task,cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option,com_docman/task,cat_view/gid,160/Itemid,75/). Copies of the RUE Profile may be obtained from IETF Secretariat, 5177 Brandin Court, Fremont, CA 94538, 510–492–4080, at <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>. Copies of these publications also may be inspected during normal business hours at the following locations: Consumer and Governmental Affairs Bureau,

Reference Information Center, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 216**

[Docket No. 080302361–6677–01]

RIN 0648–AU02

### **Protective Regulations for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), propose regulations under the Marine Mammal Protection Act (MMPA) to prohibit swimming with and approaching a Hawaiian spinner dolphin within 50 yards (45.7 m) (for persons, vessels, and objects), including approach by interception. These proposed regulatory measures are intended to prevent take of Hawaiian spinner dolphins from occurring in marine areas where viewing pressures are most prevalent; prohibitions would apply in waters within 2 nautical miles (nm; 3.7 km) of the Hawaiian Islands and in the waters between the islands of Lanai, Maui, and Kahoolawe. This proposed rule to establish 50-yard swim-with and approach regulations would help ensure public compliance by providing clear notice of prohibited conduct that results in take, including harassment and disturbance.

Although unauthorized take of marine mammals, including harassment of spinner dolphins, already is and continues to be prohibited under the MMPA throughout their range, the purpose of this regulation is to identify and prohibit specific human activities that result in take (including harassment) of spinner dolphins, and thus reduce disturbance and disruption

of important Hawaiian spinner dolphin behaviors in areas where human-dolphin interactions are most likely to occur. These proposed regulations would reduce take of Hawaiian spinner dolphins and the impact of human viewing and interaction on these animals in the Main Hawaiian Islands (MHI). We developed this proposed rule after considering comments submitted in response to an Advance Notice of Proposed Rulemaking (ANPR), as well as information received during the public scoping period for the Draft Environmental Impact Statement (DEIS), from community meetings, and from a dedicated scientific research project.

Although not currently part of this proposal, we are also considering whether additional management measures may be necessary and appropriate to protect Hawaiian spinner dolphins from take, especially in essential daytime habitats that are regularly targeted by humans for dolphin-directed activities. Accordingly, we are soliciting public comment on the proposed swim-with and approach regulations, as well as alternative management options discussed in this rule and in detail in the DEIS.

**DATES:** Comments must be received no later than 5 p.m. on October 23, 2016.

Public meetings will provide the public with an opportunity to provide comments on any portion of the proposed rule or DEIS. These meetings are scheduled for:

September 7, 2016, 5:30–9:30 p.m. at Konawaena High School Cafeteria, 81–1043 Konawaena School Rd., Kealahou, HI 96750;

September 8, 2016, 5:30–9:30 p.m. at Kealahou High School Cafeteria, 74–5000 Puohulihuli St., Kailua Kona, HI 96740;

September 21, 2016, 5:30–9:00 p.m. at Kauai High School Cafeteria, 3577 Lala Rd., Lihue, HI 96766;

September 22, 2016, 5:30–9:00 p.m. at the Hawaiian Islands Humpback Whale National Marine Sanctuary Visitor Center, 726 South Kihei Rd., Kihei, HI 96753;

September 27, 2016, 5:30–9:30 p.m. at Roosevelt High School Dining Hall, 1120 Nehoa Street, Honolulu, HI 96822; and

September 28, 2016, 5:30–9:30 p.m. at Waianae High School Cafeteria, 85–251 Farrington Hwy., Waianae, HI 96792.

**ADDRESSES:** You may submit comments, information, or data on this document, identified by NOAA–2005–0226, and on the DEIS by either of the following methods:

**Electronic Submission:** Submit all electronic comments via the Federal