



PUBLIC NOTICE

Federal Communications Commission
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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON FILINGS BY SIRIUS XM RADIO INC.

EB Docket No. 04-296
PS Docket No. 15-94

Comment Date: November 27, 2018
Reply Comment Date: December 7, 2018

Pursuant to section 0.191 of the Federal Communications Commission's (Commission) rules,¹ the Public Safety and Homeland Security Bureau (Bureau) seeks comment on filings made by Sirius XM Radio Inc. (Sirius XM) on July 31, 2014, June 5, 2017, September 24, 2018, and November 5, 2018,² as supplements to a Petition for Reconsideration filed by XM Radio Inc. on December 27, 2005 (XM Petition).³ In its various post-2005 supplemental filings, Sirius XM requests interpretations of the Commission's EAS rules or, in the alternative, asks that the Commission grant, to the extent necessary, a waiver to permit Sirius XM to transmit EAS header code tones in a compressed audio format over the four channels on the legacy XM platform that use compression technology on their audio.⁴ Pursuant to Section 1.429(e) of the Commission's rules, the Commission requested comment on the XM Petition on

¹ 47 CFR § 0.191.

² See Letter from James S. Blitz, Vice President, Regulatory Counsel, Sirius XM Radio Inc., to Marlene H. Dortch, Secretary, FCC, EB Docket 04-296 (filed July 31, 2014), <https://www.fcc.gov/ecfs/filing/6018248996>; Motion of Sirius XM Radio Inc. for Leave to Supplement Petition for Reconsideration and Request for Limited Waiver, EB Docket No. 04-296, PS Docket No. 15-94, at 2 (filed June 5, 2017), <https://ecfsapi.fcc.gov/file/1060555872521/EAS%20docket%20filing.pdf>; Further Supplement of Sirius XM Radio Inc. to Petition for Reconsideration and Request for Limited Waiver, EB Docket No. 04-296, PS Docket No. 15-94 (filed Sept. 24, 2018), <https://ecfsapi.fcc.gov/file/10924819802710/SiriusXM%20EAS%20Further%20Supplement%20to%20Recon%20Petition%20FINAL%209.24.18.pdf>; Letter from James S. Blitz, Vice President, Regulatory Counsel, Sirius XM Radio Inc., to Marlene H. Dortch, Secretary, FCC, EB Docket 04-296, PS Docket No. 15-94 (filed Nov. 5, 2018), https://ecfsapi.fcc.gov/file/110571174841/Sirius_XM_Ex_parte_in_04-296_110518_Final_.pdf (collectively Sirius XM Supplement Filings).

³ Petition for Partial Reconsideration and Clarification of XM Radio Inc., EB Docket No. 04-296 (filed Dec. 27, 2005) (XM Petition). Although this petition was originally filed by XM Radio Inc. (XM), that entity subsequently became Sirius XM Radio Inc. when the Commission approved the merger of Sirius Satellite Radio Inc. and XM in August 2008. See *Applications for Consent to the Transfer of Control of Licenses XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, Memorandum Opinion and Order and Report and Order, MB Docket No. 07-57, 23 FCC Rcd 12348 (2008).

⁴ See Sirius XM September 24 Supplement at 1, n.3 (Petition for Reconsideration of testing rules) and 4 (compressed audio waiver request).

March 6, 2006.⁵ Sirius XM has since submitted the Sirius XM Supplemental Filings.⁶ The Bureau seeks comment limited to these Sirius XM Supplemental Filings. To the extent that the Commission decides to consider these filings and the relief requested therein, comment could help to inform the agency's decisions.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- ☐ Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- ☐ Paper Filers: Parties that 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 9050 Junction Drive, Annapolis Junction, MD 20701.
- ☐ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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Ex Parte Rules. This proceeding shall be treated as "permit-but-disclose" proceedings in accordance with the Commission's *ex parte* rules.⁷ 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

⁵ See *Petitions for Reconsideration of Action in Rulemaking Proceeding*, Public Notice, 2006 WL 305861 (Feb. 9, 2006). Only Sirius Satellite Radio Inc. filed comments, which supported the XM Petition. See Sirius Satellite Radio Inc. Comments, EB Docket No. 04-296 (March 2, 2006).

⁶ See *supra* note 2.

⁷ 47 CFR §§ 1.1200 – 1.1216.

consistent with rule 1.1206(b). In proceedings governed by rule 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.

For further information, contact David Munson, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-2921 (voice), or via e-mail at David.Munson@fcc.gov.

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