

would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard and will result, as a consequence of that approval, in the Administrator's withdrawal of the CAIR FIP. It does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it would approve a State rule implementing a Federal Standard.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 3, 2007.

**J.I. Palmer Jr.,**

*Regional Administrator, Region 4.*

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**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

[MB Docket No. 07-57; FCC 07-119]

#### Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; comments requested.

**SUMMARY:** Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc. submitted applications seeking permission to transfer control of Commission licenses and authorizations held by XM and Sirius to a single, combined entity. The proposed transfer conflicts with language which prohibits such a combination in an earlier Commission order. The Notice of Proposed Rulemaking ("NPRM") seeks comment on whether the language in question constitutes a binding Commission rule and, if so, whether the Commission should waive, modify, or repeal the prohibition in the event that the Commission determines that the proposed merger, on balance, would serve the public interest.

**DATES:** Interested parties may file comments on the NPRM on or before August 13, 2007, and reply comments on or before August 27, 2007.

**ADDRESSES:** Copies of the NPRM may be accessed from the Internet homepage of the Federal Communications Commission via the following hyperlink: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-119A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-119A1.pdf). Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

• **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the

caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• **Paper Filers:** Parties who choose to file by paper must file an original and four copies 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 (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 should be addressed to 445 12th Street, SW., Washington, DC 20554.

**People with Disabilities:** 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).

**FOR FURTHER INFORMATION CONTACT:** Rosemary C. Harold, (202) 418-7200, Royce Sherlock, (202) 418-7030, or Marcia Glauber, (202) 418-7046, of the Media Bureau.

**SUPPLEMENTARY INFORMATION:** The NPRM was adopted by the Commission on June 25, 2007, and released on June 27, 2007.

**Initial Regulatory Flexibility Certification.** Pursuant to the Regulatory

Flexibility Act, the Commission certifies that the outcome of this rulemaking will not have a significant economic impact on a substantial number of small entities. Currently, only XM and Sirius hold licenses to provide SDARS service. Because SDARS service requires significant capital for operation, the Commission believes it is unlikely that a small entity, as defined by the Small Business Administration, would have the financial wherewithal to become an SDARS licensee.<sup>1</sup>

<sup>1</sup> The small business size standard for the census category, "Radio Networks," which includes radio

*Paperwork Reduction Act.* The NPRM does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Thus, 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, Public Law 107-198. See 44 U.S.C. 3506(c)(4).

satellite broadcasting, is \$6.5 million or less in receipts, per year. See 13 CFR 121.201, NAICS code 51511.

*Ex Parte Information.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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