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BEFORE THE

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**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Replacement of Part 90 by )  
Part 88 to Revise the Private )  
Land Mobile Radio Services )  
and Modify the Policies )  
Governing Them )  
)  
and )  
)  
Examination of Exclusivity )  
and Frequency Assignment )  
Policies of the Private )  
Land Mobile Radio Services )

PR Docket No. 92-235

To: The Commission

PETITION FOR RECONSIDERATION

The American Petroleum Institute ("API"), pursuant to Section 1.429(d) of the Rules and Regulations of the Federal Communications Commission ("Commission"), by its attorneys, hereby respectfully submits this Petition for Reconsideration of the Second Report and Order ("Second R&O") adopted by the Commission in the above-styled proceeding.<sup>1/</sup> This Petition addresses the consolidation of the Petroleum Radio Service, along with the other Industrial

<sup>1/</sup> Second Report and Order, 62 Fed. Reg. 18536 (April 17, 1997).

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and Land Transportation Services, into the Industrial/Business ("I/B") Pool.

I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 300 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. One of the Telecommunications Committee's primary functions is to evaluate and develop responses to state and federal proposals affecting telecommunications services and facilities used in the oil and gas industries. Consistent with that mission, it also reviews and comments, where appropriate, on other proposals that impinge on the ability of the energy industries to meet their telecommunications needs.

## II. DISCUSSION

### A. Background

2. In the Second R&O, the FCC consolidated the 20 Private Land Mobile Radio ("PLMR") Services into two pools: Public Safety and I/B. In consolidating the radio services, the FCC designated all the frequencies that were previously allocated to any of the Industrial or Land Transportation Radio Services,<sup>2/</sup> including the Petroleum Radio Service, as the I/B Pool. The I/B Pool frequencies are available to any entity that is not eligible in the Public Safety Pool.

3. In the Petroleum, Power, and Railroad Radio Services, mobile radio communications are critical for responding to emergencies that could impact hundreds or even thousands of people. Moreover, numerous Federal, state and local regulatory requirements dictate the use of reliable communication facilities in these industries to ensure the safety of their operations. Exhibit A describes some of the requirements that are imposed on the petroleum and natural gas industries.

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<sup>2/</sup> The following PLMR Services will be reclassified by the Second Order as the I/B Pool: Power, Petroleum, Forest Products, Film and Video Production, Relay Press, Special Industrial, Business, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab and Automobile Emergency.

4. In recognition of the important public safety functions performed by Petroleum, Power and Railroad Radio Services licensees, the FCC determined that coordination responsibility for those frequencies previously allocated solely to each of these services will continue to reside with the designated certified frequency coordinator for each service.<sup>3/</sup> However, any channel previously allocated on a *shared* basis to any of these services, as well as any other service, may be coordinated by any Commission-recognized coordinator.

**B. The FCC Should Promote Public Safety by Protecting All Existing Petroleum Radio Service Systems**

5. The FCC's new coordination plan is entirely unacceptable because it fails to deliver the level of coordination consideration committed to by the Commission in the text of the Second R&O. With the exception of four 25 kHz oil spill response channels, there are no exclusive assignments for the Petroleum Radio Service in the VHF

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<sup>3/</sup> According to the FCC's new I/B Pool coordination rules:

[Entities] who apply for frequencies which are solely allocated to the Railroad, Power or Petroleum Radio Services must obtain coordination from the current certified frequency coordinator for the respective service. Second Order at ¶ 42.

band.<sup>4/</sup> Similarly, the only exclusive assignment for the Petroleum Radio Service in the UHF band is one pair of 25 kHz oil spill response channels.<sup>5/</sup> Thus, the Commission's new rules would result in the Petroleum Frequency Coordinating Committee ("PFCC") exercising supervision over a minuscule amount of spectrum that, when licensed and shared by a wide variety of users, will be grossly insufficient to meet mobile radio communication requirements for the many critical functions that are performed in exploration, production, pipeline transportation and refining environments.

6. The Commission in its Second R&O specifically recognized the special communications requirements of users in the Petroleum Radio Service when it determined that, "the nature of their day-to-day operations, provides little or no margin for error and in emergencies, they can take on an almost quasi-public safety function." Second R&O at ¶ 41. API believes that the Commission meant to protect through its coordination exclusivity provision the security of existing Petroleum Radio Service systems used throughout the industry in exploration, production, pipeline and other transportation operations, and refining activities. While

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<sup>4/</sup> 150.980 MHz, 154.585 MHz, 158.445 MHz and 159.480 MHz.

<sup>5/</sup> 454.000 MHz and 459.000 MHz.

this coordination provision works well for the Power and Railroad Radio Services because they enjoy numerous exclusive assignments, it does not work well in the Petroleum Radio Service because it has been allocated so few exclusive channel assignments. As a result, API believes the Commission's well-intentioned action could have unanticipated, and even dangerous, results when applied to existing Petroleum Radio Service systems.

7. To rectify this distressing situation, API urges the Commission to implement protected service contours ("PSCs") for all existing Petroleum Radio Service systems. This process can be implemented through the use of RF computer modeling techniques.<sup>6/</sup> It is important to emphasize that the proposed PSCs would apply only to current Petroleum Radio Service systems. In particular, API proposes that PFCC concurrence be required for the grant of any application that seeks authority to share any channel currently allocated to the Petroleum Radio Service in which the applicant's system would impinge on the existing system in excess of the following values:

For UHF systems operating in the band  
450-470 MHz, an applicant's 21 dBu contour may not

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<sup>6/</sup> Such computer applications would obviate the need for the existing safe harbor tables found in Sections 90.205(d) and 90.205(g).

impinge upon the 39 dBu contour of the existing system; for VHF systems employing channels from the 150-174 MHz band, an applicant's 19 dBu contour may not encroach upon the 37 dBu contour of the existing system; and for systems operated on channels below 50 MHz, an applicant's 12 dBu contour may not encroach upon the 30 dBu contour of an existing system.

Adoption of these measures will permit greater sharing of Petroleum Radio Service assignments in areas where they are not employed for critical functions while, at the same time, protecting existing systems.

8. Only by establishing protected service contours for incumbent Petroleum Radio Service systems will the Commission guarantee the ongoing viability of these frequently critical systems. This action would be entirely consistent with the Commission's pronounced goal in this proceeding of protecting safety-related communications facilities operated by Petroleum Radio Service licensees. For example, in its Second R&O, the FCC determined that it is important to "protect these operations, which involve safety-related communications."<sup>2/</sup>

9. API points out that most petroleum and natural gas users are licensed on channels which are shared with other industrial services, principally the Manufacturers and Forest Products Radio Services, which do not normally have

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<sup>2/</sup> Id.

operations in the same geographic areas as petroleum entities. Thus, the majority of oil and natural gas systems are shared with a well-defined universe of conscientious licensees.

10. The same scenario will not hold true in an environment without interservice coordination rules, where any business entity is eligible to secure use of these frequency assignments. In order to protect the public safety communications of Petroleum Radio Service licensees, API believes the Commission must establish protected service contours for these existing licensees. In this way, the Commission will achieve its goal of fostering efficient use of frequency assignments by all I/B pool eligibles while, at the same time, ensuring that the public safety demands which are made upon Petroleum Radio Service licensees in frequently hazardous environments, such as those found in exploration and production, transportation and refining operations, will continue to be met.

**C. API Urges the Commission to Clarify The Frequency Table Contained in Section 90.35**

11. Under the previous frequency table, contained in Section 90.65, the following frequencies were available for exclusive use by Petroleum Radio Service eligibles:

1628 kHz; 1652 kHz; 1676 kHz; 1700 kHz; 2292 kHz; 2398 kHz; 4637.5 kHz; and 25.14 MHz. The frequency table contained in the new rules, however, fails to reflect these particular assignments as exclusive Petroleum Radio Service channels. API urges the Commission to correct this apparent oversight.

12. Similarly, API believes that a Limitation "7" was erroneously omitted from the listing for 2292 kHz. Moreover, 30.66 MHz and 30.82 MHz should be amended to include Limitations "4, 7, and 9" and 30.74 MHz should include Limitations "4 and 7". API urges the Commission to conduct a thorough review of its new frequency table to ensure that other vital footnotes and limitations are correctly incorporated from the former frequency table.

### III. CONCLUSION

13. In order to promote public safety goals, API strongly urges the Commission to establish the following protected service contours for existing Petroleum Radio Service systems: (1) 39 dBu PSCs for existing UHF systems; (2) 37 dBu PSCs for existing VHF systems; and (3) 30 dBu PSCs for existing low band systems. Only by establishing guaranteed protections for these vital communications

systems will the Commission attain its twin goals of ensuring public safety and promoting efficient frequency assignments in the I/B pool. API also requests the Commission to correct its frequency table so that it accurately reflects assignments contained elsewhere in the rules.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully requests the Commission to reconsider its service consolidation decision in this matter and take remedial action consistent with the request made herein.

Respectfully submitted,

**AMERICAN PETROLEUM INSTITUTE**

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## EXHIBIT A

### **Examples Of Federal Requirements For Safety Communications In The Petroleum And Natural Gas Industry**

The Department of Transportation regulations for high-reliability communications systems and secondary communications systems cover the operation of high pressure natural gas pipelines. See, 49 C.F.R. § 194.107(d)(1)(ii); 49 C.F.R. § 194, Appendix A; 49 C.F.R. § 195.401(a); 49 C.F.R. § 195.402(c); 49 C.F.R. § 195.408.

Similarly, the Occupational Safety and Health Administration (OSHA) Report 3033 specifically requires refineries, petrochemical plants, oil pipelines and other facilities to maintain complex, reliable primary and secondary communications systems. See, Process Safety Management Guidelines for Compliance, OSHA 3113 at 25 (1992).

Additionally, the Environmental Protection Agency ("EPA") has established risk management programs to deal with off site consequences of hazardous material spills and releases. See, Section 112R, Accidental Release Provisions of the Clean Air Act.

The U.S. Coast Guard places heavy communications requirements on oil companies as well. For instance, all applicants that own, construct or operate a deep-water port, such as an oil transfer facility, must describe the communications systems to be used in the construction and operation of a deep-water port. 33 C.F.R. §§ 148.109(g) and 148.109(v) (1996). U.S. Coast Guard regulations also require marine transportation-related facilities that transfer oil or other bulk hazardous materials to and from vessels to submit a response plan that describes the primary and alternative means of communications that would be utilized during an accidental discharge. 33 C.F.R. § 154.1035(e)(4) (1996). Communications system requirements are also placed on operators of waterfront facilities handling liquified hazardous gas to have continuous two-way voice communications between vessels and the transfer facilities. 33 C.F.R. § 127.111 (1996). Oil-bearing vessels are required by U.S. Coast Guard regulations to notify the Coast Guard of their primary and secondary communications methods to be utilized in order to notify appropriate parties in the event of an oil spill. 33 C.F.R. § 155.1035(b)(4) (1996) (married vessels); 33 C.F.R. § 155.1040 (1996) (unmarried tank barge).

The Minerals Management Service ("MMS") of the U.S. Department of Interior requires that operators of offshore facilities for oil exploration, drilling, production, storage, processing or transportation in federal or state waters file an Oil Spill Contingency Plan ("OSCP"). In the OSCP, operators must establish an oil spill response center and a reliable communications system for directing the coordinated overall response operations in the event of an oil spill. 30 C.F.R. §§ 254.5 and 254.5(c)(7)(iii) (1996).