

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 90 of the Commission’s)	PS Docket No. 15-199
Rules to Enable Railroad Police Officers to)	RM-11721
Access Public Safety Interoperability and)	
Mutual Aid Channels)	

To: The Commission

**COMMENTS OF
THE AMERICAN PETROLEUM INSTITUTE**

The Telecommunications Subcommittee of the American Petroleum Institute (“API”) submits these Comments in support of the Commission’s proposal to permit railroad police officers to use public safety interoperability and mutual aid channels in the VHF (150-174 MHz and 220-222 MHz), UHF (450-470 MHz), 700 MHz narrowband (764–776/794–806 MHz) and 800 MHz National Public Safety Planning Advisory Committee (“NPSPAC”) bands (806-809/851-854 MHz) (together the “Land Mobile Interoperability Channels”).¹ API supports the proposal, which will help to promote the safe and secure transportation by rail of crude oil and petroleum products. API also recommends the Commission expand its relief to include key safety personnel at oil and gas companies and other critical infrastructure industry (“CII”) facilities that have a need for Public Safety interoperability as explained herein.

I. BACKGROUND

API is a national trade association representing more than 500 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining,

¹ See Amendment of Part 90 of the Commission’s Rules to Enable Railroad Police Officers to Access Public Safety Interoperability and Mutual Aid Channels, *Notice of Proposed Rulemaking*, PS Docket No. 15-199, RM-11721 (“NPRM”).

marketing and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members before federal and state regulatory agencies. The API Telecommunications Subcommittee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries. API is supported and sustained by companies that make use of a wide variety of wireline, wireless and satellite communications services on both a private and commercial basis.

API member companies are authorized by the Commission to operate facilities in the Private Land Mobile Radio (“PLMR”) service and Private Operational-Fixed Microwave Services (“POFS”), among other telecommunications systems. Spectrum is used for applications such as communications with remote oil and gas exploration and production sites for voice and data applications, communications within refineries, the extension of circuits to remote pipeline pump and compressor stations, and supervisory control and data acquisition systems (“SCADA”) that remotely monitor and control oil and gas wells, pipeline operations and other facilities. Adequate communications resources are essential for industry rescue and emergency response teams to perform their duties.

II. The Commission Should Allow Railroad Police To Use Public Safety Interoperability and Mutual Aid Channels.

API supports the Commission’s proposal to permit railroad police officers to use the Land Mobile Interoperability Channels.

As discussed in the comments filed by the Association of American Railroads (“AAR”), railroad personnel often assist local officials and first responders with emergencies involving the transportation of potentially hazardous materials, including crude oil.² Hazardous materials and crude oil have been transported by rail at steadily increasing rates in recent years and the

² See Corrected Comments of the Association of American Railroads at 4 (Filed Jul. 9, 2014).

Department of Transportation (“DoT”) has identified rail transportation as a particularly safe method for moving large quantities of chemicals over long distances.³ For example, according to a report by AAR in 2009, the injury rate associated with rail freight transportation is approximately six percent that of the truck transportation injury rate per trillion ton-miles.⁴

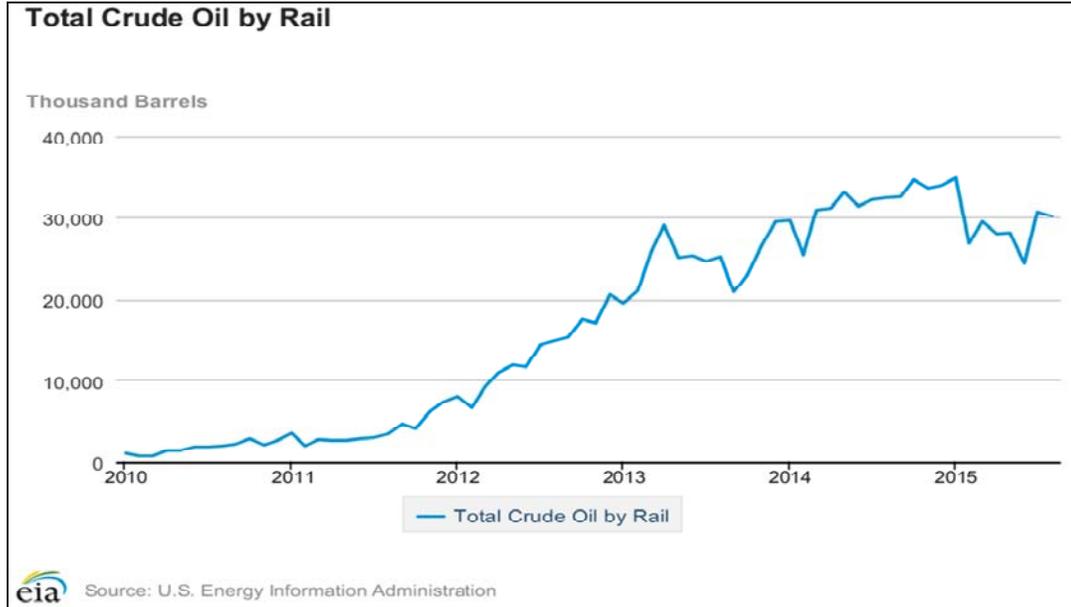
In 2010, the United States Energy Information Administration (“EIA”) began publishing data on the volumes of crude oil transported by railroads within the United States. In January of that year, the EIA reported just over 1 million barrels of crude oil were transported by rail, *per day*.⁵ Since then, the total number of barrels of crude oil transported by rail *per day* has increased to more than 25 million as described in the following graph from the U.S. Energy

³ United States Department of Transportation, Federal Railroad Administration, *Hazardous Materials Transportation*, <https://www.fra.dot.gov/Page/P0151>.

⁴ *The Economic Impact of America’s Freight Railroads*, Association of American Railroads, Policy & Economics Dep’t, Feb. 2003 at 1-3.

⁵ United States Energy Information Administration, Petroleum & Other Liquids, *U.S. Movements of Crude Oil By Rail*, (rel. Oct. 30, 2015), http://www.eia.gov/dnav/pet/PET_MOVE_RAILNA_A_EPC0_RAIL_MBBL_M.htm.

Information Administration:⁶



Despite the economic and safety benefits associated with transportation of crude oil and other hazardous materials by rail, numerous security challenges exist.⁷

API has led efforts aimed at preventing, mitigating, and responding to incidents involving petroleum products as they move throughout the rail transportation system and has partnered with regulators and the rail industry to evaluate ways to improve emergency response through enhanced training and communication. Improvements in communications and coordination among and between private industry and public safety agencies are key to security enhancement, and API supports the Commission proposal to further such coordination by permitting railroad police officers to use the Land Mobile Interoperability Channels.

⁶ United States Energy Information Administration, Petroleum & Other Liquids, *Total Crude Oil by Rail*, (rel. Oct. 30, 2015), http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=ESM_EPC0_RAIL_ZAMN-ZAMN_MBBL&f=M.

⁷ Jack Riley, Terrorism and Rail Security, Testimony Before the S. Committee on Commerce, Science, and Transportation, RAND Corporation, Mar. 23, 2004 at 5. See also Transportation Security Administration Office of Intelligence, Freight Rail Threat Assessment, Feb. 28, 2011 at 3.

III. The Commission Should Expand Its Proposal to Oil and Gas Companies And Other CII Entities.

Like the railroads, the Commission should extend to oil and gas companies and other CII entities its proposal to include interoperability and mutual aid channels for safety-related communications if their employer holds a Private Land Mobile Radio (PLMR) license of any radio category, including Industrial/Business (I/B).

Oil and gas industry communications systems are used to promote safety of life and preserve and protect property and the environment. As the Commission has recognized, critical infrastructure entities such as the oil and natural gas industry perform vital safety functions.⁸ In certain instances the FCC also has determined that CII licensees operate “public safety radio services” within the definition of Section 309(j)(2) of the Communications Act of 1934, as amended.⁹ President Obama specifically designated the energy industry as a critical infrastructure sector vital to public confidence and the Nation's safety, prosperity, and well-being.¹⁰

Due to the potentially hazardous nature of oil and natural gas exploration, production and transportation, safety is a primary concern at all industry facilities. Substantial resources and communications infrastructure are employed both to prevent accidents as well as to respond quickly in the event of an incident.

For example, the Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) rules require each operator of a pipeline facility to have a communication system that provides for the transmission of information needed for the safe operation of its pipeline system. The

⁸ See 47 C.F.R. § 90.7.

⁹ See Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 at note 11 (2004).

¹⁰ Presidential Policy Directive/PPD-21, Critical Infrastructure Security and Resilience (Feb. 12, 2013).

minimum requirements for such communications systems include the capability of (1) monitoring operational data, (2) receiving notices from personnel, the public and public authorities of any abnormal/emergency conditions, (3) providing two-way vocal communications between a control center and the scene of any abnormal/emergency situation, and (4) *communicating with fire, police, and other appropriate public officials during emergency conditions.*¹¹

Refineries, chemical plants, and other facilities often employ on-site fire departments and emergency response teams to provide immediate assistance in emergencies.¹² These teams often include certified emergency medical technicians and firefighters and individuals trained in industrial fire-fighting (hydrocarbon, chemical and structural fires); high angle and confined space rescue; hazardous materials release or leak response; and emergency vehicular operations.¹³ Oil spill response teams also regularly conduct oil spill drills coordinated with agencies such as the United States Coast Guard.¹⁴

In order to respond effectively in the case of incidents, first responders must be able to acquire essential information and data about oil and gas facilities and coordinate and communicate with operators of these facilities. Shared access to information is essential to effective communications and safe emergency response.¹⁵

By relying on internal resources as well as by working in close cooperation with first

¹¹ 49 C.F.R. § 195.408(b).

¹² See e.g., <http://pascagoula.chevron.com/home/environmentandsafety/safetyandhealth/emergencyprocedures.aspx> (last visited October 21, 2014).

¹³ See http://richmond.chevron.com/Libraries/Documents/Operational_Excellence.sflb.ashx (last visited November 3, 2015).

¹⁴ See <http://richmond.chevron.com/home/environmentandsafety/safetyandhealth.aspx> (last visited November 3, 2015).

¹⁵ Implementing a Nationwide, Broadband, Interoperable Public Safety Network, in the 700 MHz Band, FCC PS Docket No. 06-229, Comments of IMSA, IAFC, CFSI, and FCCA at 10 (2007).

responders and governmental agencies, the oil and gas industry effectively promotes public safety. However, one of the key tools that is lacking in many instances is interoperability with Public Safety.

The Commission's proposed Section 90.20(i) provides that "[a]ny licensee holding a Part 90 public safety license may operate hand-held and vehicular mobile units on [the Land Mobile Interoperability Channels] channels without needing a separate authorization." The FCC has proposed a separate rule for railroad police by which such personnel will be authorized to operate on the Land Mobile Interoperability Channels based on their employer holding any Part 90 license, not just a public safety license.

API believes that similar authority to operate on the Land Mobile Interoperability Channels should be provided to CII personnel who are certified by a state or local government for emergency medical or fire response or require access to the Land Mobile Interoperability Channels for safety purposes or to satisfy legal requirements such as PHSMA (see above). This authorization should be provided based on the employer holding any Part 90 license, including a license in the Business/Industrial pool.

Oil and gas companies and other CII entities should be recognized for their role in disaster response. Allowing CII personnel access to the Land Mobile Interoperability Channels will help address a critical safety need.

