

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz</b>	)	<b>RM-9405</b>
	)	
	)	

**Reply Comments of the National Ready Mixed Concrete Association**

The National Ready Mixed Concrete Association (NRMCA), pursuant to the *Public Notice* released on November 23, 1998, in the above-referenced matter, hereby respectfully submits these Reply Comments.<sup>1</sup>

**I. Introduction**

1. The NRMCA is a nationwide ready mixed concrete trade association whose mission is to provide comprehensive engineering, research, lobbying and educational services for producers of ready mixed concrete. These programs enable ready mixed concrete concerns to become more profitable, knowledgeable and better members of their communities.

**II. Background**

2. On November 23, 1998, the Commission released a *Public Notice* inviting comment on the August 14, 1998, petition for rule making filed by UTC, the Telecommunications Association, the Association of American Railroads, and the American Petroleum Institute (collectively, "Petitioners").<sup>2</sup> The Petitioners requested the creation of a new "public service" pool in the bands below 800 MHz.<sup>3</sup> On December 23, 1998, several parties filed comments in this matter. The NRMCA did not file comments. Now, however, the NRMCA submits these "Reply Comments" in order to present its views and insights to the Commission regarding the matters raised in this proceeding.

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<sup>1</sup> *Public Notice*, Office of Public Affairs Reference Operations Division Petition for Rule Making Filed, Report No. 2306 (rel. Nov. 23, 1998).

<sup>2</sup> See Petition for Rule Making filed by UTC, the Telecommunications Association, the Association of American Railroads, and the American Petroleum Institute, dated Aug. 14, 1998 (Petition).

<sup>3</sup> Petition at 6.

### III. Reply Comments

3. Petitioners have requested that the Commission establish a separate public service pool to protect the "public service" frequencies from the encroachment from non-essential industrial services.<sup>4</sup> The nation's ready mixed concrete companies are some of these so-called "non-essential" industrial users. As better described below, to characterize ready mixed concrete providers as "non-essential" is ludicrous at best.

4. Concrete is a critical component of the nation's \$672.8 billion construction industry. Virtually every major office building, condominium complex, museum, bridge, stadium, shopping center, single-family dwelling, and underground utility incorporates the use of concrete. To meet this demand, the industry provided approximately 330 million cubic yards of ready mixed concrete in the United States. This volume equates to \$20 billion in concrete sales. Approximately 120 thousand people work directly for ready mixed concrete concerns. The aggregate, cement, admixture, and other manufacturing companies that support and supply the concrete industry have an even greater impact on the economy.

5. Concrete is a heavy, perishable product, and it is the dispatcher's job to get it to the job site in a safe, efficient manner. The ready mixed concrete must also be delivered in accordance with the customers' construction timetable. To do this, the ready mixed concern uses two-way dispatch radio to ensure the most efficient use of the concrete trucks. Currently, there are at least 75,000 ready mixed concrete trucks on the road, most of which are equipped with two-way dispatch radios. U.S. ready mixed plants, which number more than 5,500, use private wireless systems to dispatch the concrete trucks to the construction sites.

6. The ready mixed concrete industry supports the FCC's original decision to consolidate the 20 radio services into two pools. Removing the administrative barriers within the services is very advantageous to NRMCA's members and comports with the FCC's often-stated goals to streamline its regulatory processes. Ready mixed concerns also benefit from competitive coordination, which has driven down prices, and from a more efficient distribution of the available channels to all private wireless users.

7. NRMCA believes the FCC should not "de-consolidate" the pools and create a new "public service" pool. The Petition is merely an untimely petition for reconsideration of the consolidation decision in the "refarming proceeding."<sup>5</sup> Instead, the Commission should dismiss or deny the petition as what it is, a poorly disguised and substantively inadequate petition for reconsideration.

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<sup>4</sup> Petition at 6.

<sup>5</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Second Report and Order*, PR Docket No. 92-235, FCC 97-61 (rel. March 12, 1997).

8. NRMCA, however, understands the frustration of the Petitioners. As an alternative to creating a new pool, the Commission may want to provide some other means of protection to the Petitioners. NRMCA believes the power, railroad and petroleum industries X like all other private wireless radio users X are important industries. Further, if the Petitioners are suffering an increase in interference due to inattentive frequency coordination, NRMCA supports the institution of a mandatory protected service contour, where the 21 dBu contour of the proposed station would be prohibited from interfering with the 39 dBu contour of the existing power, railroad, and petroleum system, as suggested by some commenters.<sup>6</sup>

Respectfully Submitted,

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By: \_\_\_\_\_  
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Dated: January 7, 1999

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<sup>6</sup> See Joint Opposition of the Industrial Telecommunications Association, Inc., the Council of Independent Communication Suppliers, the Taxicab & Livery Communications Council, the Telephone Maintenance Frequency Advisory Committee and USMSS, Inc. at 16-17.