

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
1998 Biennial Regulatory Review --)
47 C.F.R. Part 90 - Private Land Mobile)
Radio Services)
)
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 Services)

WT Docket No. 98-182
RM-9222

PR Docket No. 92-235

To: The Commission

COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute ("API"), by its attorneys and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("Commission" or "FCC"), respectfully submits the following Comments in response to the Notice of Proposed Rule Making ("Notice") adopted in the above-captioned matter on September 30, 1998.^{1/}

^{1/} 63 Fed. Reg. 65568 (November 27, 1998). The time for filing these Comments was extended to January 19, 1999 by Order of the Acting Chief, Public Safety Private

(continued...)

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I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 350 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. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. The petroleum and natural gas industries continue to be major users of private mobile radio systems to meet essential internal telecommunications requirements. These requirements include voice and telemetry communications that are essential to support oil and gas exploration, development, and production activities. There is a continuing equally important requirement for reliable mobile radio communication in the pipeline gathering and long-haul transport of natural gas and crude oil to processing and refinery sites. Similar factors dictate the use of such systems for the subsequent

^{1/} (...continued)
Wireless Division (DA 98-2651).

transportation of petroleum products and natural gas by pipelines and rail, motor and maritime carriers on a nationwide basis for delivery to industrial, commercial, and residential consumers. Reliance on these systems protects the public, industry personnel, the environment, and critical national infrastructure.

3. The Commission initiated this proceeding to “determine which (Part 90) regulations were either not in the public interest, obsolete, overly complex, require editorial change, or were redundant in nature.” Some of the changes proposed in this matter will affect the future use of critical mobile radio systems employed by the petroleum and natural gas industries. Accordingly, API appreciates this opportunity to submit the following comments.

II. COMMENTS

A. The Term of Private Land Mobile Radio Services Licenses Should Remain Five Years

4. The Commission has proposed to extend the license term for Private Land Mobile Radio Service (“PLMRS”) authorizations from the present five-year term to ten years. Existing five-year licenses would be renewed for a ten-year period at their next renewal. This rule change would effectively halve licensing costs because the processing fee would remain unchanged, while the license term would be doubled. PLMRS users

would receive the benefit of this rule change through lower annualized fees and less frequent license renewals.

5. The advantage of the present five-year term is that it provides a mechanism for the Commission to purge its files on a more periodic basis of systems for which license renewal has not been sought and presumably have been removed from operation. A cluttered data base creates a picture of false spectrum usage and denies new applicants access to available assignments. Accordingly, while API acknowledges the clear economic benefit of the Commission adopting the ten-year term, it supports continuation of the five-year term as a relatively inexpensive means of supporting a more accurate license data base.

B. The Rules Should Be Amended to Provide a Period of Twelve Months to Place Stations in Operation

6. The PLMRS rules generally require stations be placed into operation within eight months from the date of license grant. Some licensees are allowed twelve months, and there are rule provisions that allow extensions for up to five years. The Commission has proposed to make the "in operation" requirement a consistent twelve months for all licensees not seeking an extended implementation period. The Commission seeks to simplify the rules, reduce the number of extension requests and lower costs. Licensees will benefit from this change through extended time to place

facilities in operation and be relieved of having to request extensions of time to complete construction when circumstances delay immediate installation of the authorized station. This change should also lower costs for both licensees and the Commission; and, accordingly, API supports its adoption.

C. The Rules Should Be Amended to Permit Limited System Sharing by Industrial/Business Pool Licensees with Public Safety and Federal Entities

7. Public safety entities are precluded from entering into sharing arrangements with the Federal government under Section 90.179(a) because sharing is permitted only with entities eligible for Part 90 authorizations. Section 90.421 provides that in limited situations where an emergency exists requiring coordination and interoperability, sharing with the Federal government is permitted, but no general use sharing is allowed. The Commission has proposed to allow sharing on a non-profit, cost-sharing basis between Federal users and public safety agencies. The Commission has also asked for comments on whether to permit sharing by Industrial/Business Pool licensees with both public safety agencies and Federal government entities. General sharing of Industrial/Business Pool systems with public safety and federal agencies should not be encouraged because it will likely intensify the already congested PLMRS spectrum. Creating rules to promote interoperability for coordination during emergency

responses should be permitted, however, when it is governed by a simple written agreement entered into between the parties.

D. The Rules Should Be Amended to Clarify Trunking Modes in the Bands Between 150 and 512 MHz

8. The Land Mobile Communications Council ("LMCC") has sought accommodations so that (1) licenses include information as to whether a system uses decentralized trunking; (2) exclusivity is provided for one channel in a trunked system; and (3) the exclusive and shared channels are authorized separately. The Commission is opposed to separate authorizations, and has sought comment on these LMCC proposals. API strongly believes that the distinction in trunking modes is critical and that information should appear on the face of the station license designating whether a channel is monitored by a mobile unit or automatically at the repeater site. This may be accomplished by creating another field or, perhaps, using a specific station class code (FB8 or FB9).

E. The Definition of "Mobile Unit" Should Be Clarified

9. The Commission has proposed to revise Section 90.421 to clarify whether "mobile units" include hand-held portable transceivers. The rule amendments are intended to clarify that the term "mobile stations", as used in Part 90, includes both

vehicular-mounted and hand-held transceivers. Adoption of this proposal will eliminate an ambiguity, and its implementation is therefore supported by API.

F. UHF Low Power Channels Should Not Be Reallocated to A Non-Licensed Service

10. In an earlier proceeding, the Commission proposed elimination of frequency coordination for five frequencies in the 150 MHz band.^{2/} The Commission has now proposed that, because most users of these frequencies are not licensed (and therefore are illegally using them), to eliminate licensing for the channels by reallocating them to a non-licensed service, such as the Citizens Band. Adoption of the proposed amendment may hasten the point at which industrial users of these channels may have to forego their further use because of increased congestion. While conditions have apparently reached the point where this action is the only rationale course to take, the further erosion of critical PLMRS spectrum must be avoided in the future.

11. The Commission also included in its discussion of this proposal reference to four low power UHF channels allocated to the Industrial/Business Pool.^{3/} Although it did not include these channels in its proposal for non-licensed operations, it did invite

^{2/} 154.570 MHz, 154.600 MHz, 151.80 MHz, 151.880 MHz and 151.940 MHz. The latter three frequencies are in the Industrial/Business Pool.

^{3/} 467.850 MHz, 467.875 MHz, 467.900 MHz, and 467.925 MHz.

comments on whether there are other frequencies in Part 90 for which we could eliminate the licensing requirement. These four UHF channels are used to support important functions to some API members and API therefore strongly urges that the licensing requirement for these assignments remain in Part 90.

G. The Proposal to Change the Emission Mask Provisions for Part 90 Frequency Bands Must Be Carefully Considered

12. In another proceeding,^{4/} Motorola proposed the use of an alternative Adjacent Channel Coupled Power (“ACCP”) approach instead of emission masks for limiting out-of-band emissions in the 700 MHz band. The Commission has requested comment on using ACCP to all other Part 90 frequency bands.

13. It is unclear to API the purpose for redefining out of band emissions requirements or measurement procedures. While the total radiofrequency (RF) energy contained within an adjacent channel using the proposed ACCP procedure may be the same as the total RF energy using the existing out of band emissions mask, the spectral distribution of the RF energy using the ACCP procedure may be such that the interference into adjacent channel systems may be more harmful than interference from more evenly distributed RF energy. Moreover, interference between disparate

^{4/} See Comments of Motorola to the Second Notice of Proposed Rule Making, WT Docket No. 86-86.

technologies (e.g., analog and digital) may be unsymmetrical. That is, newer digital systems may be more tolerant to spectral energy peaks than analog systems, resulting in greater interference into existing systems simply because the procedure for determining out of band emissions was changed.

14. API believes that the rationale for changing the out of band emissions requirements should be based on improved adjacent channel intersystem performance, not just a more convenient measurement process. If it can be demonstrated that using ACCP does not reduce adjacent channel interference protection, either between like or disparate technologies, then it would make sense to change the out of band emissions requirements in order to facilitate “easier” measurements.

III. CONCLUSION

15. API supports adoption of the several rule changes proposed in this proceeding that will benefit applicants and licensees such as uniform construction periods, new forms of system sharing, and clarification of rule provisions. However, API urges the Commission to forego amending its rules where there is no advantage or the asserted benefit for PLMRS licensees is questionable.

WHEREFORE, THE PREMISES CONSIDERED, the American Petroleum Institute respectfully urges the Federal Communications Commission to act in a manner fully consistent with the views expressed herein.

Respectfully submitted

AMERICAN PETROLEUM INSTITUTE

By: Wayne V. Black
Wayne V. Black
Peter Saari
Keller and Heckman
1001 G Street, N.W.
Washington, D.C. 20001
(202) 434-4100

Its Attorneys

Dated: January 19, 1999