BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	)	
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Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services	))))	WT Docket No. 03-264

To: The Federal Communications Commission

COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute ("API"), by its attorneys, is pleased to submit these Comments to the Federal Communications Commission ("FCC" or "Commission") in response to the Notice of Proposed Rulemaking ("NPRM") released in the above-captioned proceeding on January 7, 2004.[1] The NPRM looks toward the amendment of the Commission's rules to streamline and harmonize certain of the rules governing the wireless radio services. As further discussed below, API supports the Commission's proposal that a request to delete a frequency or site from a multi-site authorization under Part 90 should be considered a minor modification that requires neither frequency coordination nor the prior approval of the Commission.

I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 400 companies involved in all phases of the petroleum and natural gas industries, including the exploration,

[1] 69 Fed. Reg. 8132 (Feb. 23, 2004).

production, refining, marketing and transportation of petroleum, petroleum products and natural gas. The API Telecommunications Committee is one of the standing committees of the organization's General Committee on Information Management & Technology. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the petroleum and natural gas industries.

2. API's Telecommunications Committee is supported and sustained by companies that are authorized by the Commission to operate telecommunications systems in various of the licensed radio services, including extensive operations in the Private Land Mobile Radio Services ("PLMRS"), governed by Part 90 of the Commission's Rules. These PLMRS systems are used to support the search for and production of oil and natural gas, to ensure the safe pipeline transmission of natural gas, crude oil and refined petroleum products, to process and refine these energy sources and to facilitate their ultimate delivery to industrial, commercial and residential customers.

3. The continued operation of the private radio systems employed by petroleum and natural gas companies is absolutely essential to protecting lives, health and property, both in support of the day-to-day operations of these companies, as well as during responses to emergency incidents. These systems are integral to the provision of our nation's energy resources to the public. Due to the critical importance of such systems to the operations of its members, API has been an active participant in all of the Commission's major rule making proceedings that have addressed the use of spectrum in the private radio services.

II. COMMENTS

4. In a Public Notice released in September 2002, the Commission initiated its 2002 biennial review process with respect to the regulations administered by the Wireless

Telecommunications Bureau ("WTB").[2] API filed Comments in response to the Public Notice that urged the Commission, among other things, to eliminate the frequency coordination requirement presently applicable where a licensee is deleting authority for one or more sites from a multi-site private land mobile system.[3]

5. On March 14, 2003, the WTB released a Staff Report that set forth the Commission's conclusions regarding comments filed in response to the Public Notice.[4] In the Staff Report, the WTB agreed with API that the Commission should consider amending Section 1.929 of its Rules to specify that the deletion of a site from a multi-site license in the PLMRS is a "minor" change that requires neither frequency coordination nor the prior approval of the Commission. The WTB also agreed with the Cellular Telecommunications & Internet Association ("CTIA") that applications requesting only that a frequency be deleted from an authorization is exempt from the coordination process. Following up on the recommendations made in the Staff Report, the Commission seeks comment in its NPRM on its tentative conclusion that a request to delete a frequency or a site from a multi-site authorization under Part 90 should be considered a minor modification that requires neither frequency coordination nor prior FCC approval.[5]

6. As API discussed in its Comments filed in response to the WTB's 2002 Public Notice – and as the WTB agreed in its Staff Report – there is no legitimate reason to continue to

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[2] *The Commission Seeks Public Comment in the 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireless Telecommunications Bureau*, Public Notice, FCC 02-264 (rel. Sept. 26, 2002).

[3] See Comments of API, WT Docket No. 02-310 (Oct. 18, 2002).

[4] 2002 Biennial Regulatory Review, WT Docket No. 02-310, *Staff Report of the Wireless Telecommunications Bureau* (Mar. 14, 2003).

[5] NPRM at ¶ 9.

require frequency coordination or prior FCC approval where a licensee is seeking to delete a single site from a multi-site license. Toward this end, API's Comments stated as follows:

> It is API's understanding that frequency coordination traditionally has been required with respect to site deletion in order to ensure that frequency coordinators would promptly become aware whenever spectrum is being forfeited and thus may be made available to other users. Since the introduction of the ULS, however, licensees have the ability to enter site deletion information directly into the FCC's database, where it may immediately be accessed by frequency coordinators. As a result, requiring frequency coordination in this instance serves only to place an unnecessary administrative and financial burden upon the licensee, with no corresponding public or private benefit. API also notes that in the microwave services, the elimination of a site or facility is not specified as a major change and thus does not require any engineering analysis or frequency coordination. API recommends that the Commission amend its rules so that PLMRS licensees will be treated in the same logical manner.[6]

The Commission agrees in its NPRM that the ULS has rendered frequency coordination unnecessary with regard to both site and frequency deletions.[7] Accordingly, API urges the Commission to move forward with the adoption of the proposed rule amendment regarding this issue.

7. The Commission also asks in its NPRM whether, assuming that this proposed rule change is adopted, there remains any need for licensees to notify the applicable frequency coordinator of any given deletion.[8] API does not believe that there would be any need for such a notice requirement. Given that frequency or site deletions effectuated via the ULS will be immediately reflected in the ULS database, the frequency coordinators will be able -- without prior notice -- to coordinate and approve any subsequent applications for use of the newly vacated spectrum as soon as the deletion has occurred. Requiring notice to a frequency coordinator would serve only to impose an unnecessary burden upon licensees.

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[6] Comments of API at ¶ 23, WT Docket No. 02-310 (Oct. 18, 2002).

[7] NPRM at ¶ 9.

[8] *Id*.

III. CONCLUSION

8. API applauds the Commission's efforts to move forward with the amendment of its rules to eliminate the frequency coordination requirement with regard to site and frequency deletions under Part 90. Such action will be a positive step toward eliminating unnecessary burdens imposed upon wireless applicants and licensees.

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

Respectfully submitted,

THE AMERICAN PETROLEUM INSTITUTE

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