

## **FHH Telecom Law**

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#### **Flexible Use for 900 MHz**

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Proposed FCC rules would allow flexible use and geographic area licensing of 199 channels allocated to the Business and Industrial/Land Transportation (B/ILT) Pools in the 896-901/935-940 MHz (900 MHz) bands. The Commission believes this approach will yield more efficient use of 900 MHz spectrum and help to facilitate the ongoing reconfiguration at 800 MHz.

Beginning in 1986, the FCC divided 10 MHz of spectrum in the 900 MHz bands among the Specialized Mobile Radio (SMR) Pool, the Industrial/Land Transportation Pool, and the Business Pool. The 1990s saw reclassification of most SMR licensees as commercial mobile radio service (CMRS) providers and the creation of service rules, auction rules, and geographic licensing rules for 900 MHz SMR licenses.

To date, the B/ILT frequencies have remained limited to private, internal use systems on a site-by-site basis. In July 2004, however, in connection with efforts to address interference concerns for 800 MHz public safety communications, the FCC consolidated B/ILT Pools in the 800 MHz and 900 MHz bands, permitting any B/ILT licensee to be licensed on the consolidated channels. Further, the FCC allowed 900 MHz B/ILT licensees to commence CMRS operations on their licensed spectrum and to assign their licenses to others for CMRS use. These changes resulted in an unexpected number of applications for new 900 MHz licenses. Raising concerns that too many new 900 MHz authorizations might compromise 800 MHz band reconfiguration, the FCC put a freeze on applications for new 900 MHz licenses.

With its proposed rules, the FCC now hopes to bring the B/ILT Pools up to speed with neighboring spectrum. It seeks comment on proposals to allow flexible use of remaining 900 MHz spectrum (*i.e.*, any use consistent with the band's fixed and mobile allocations), and to license such spectrum on the basis of geographic area rather than site by site. The FCC also proposes to auction mutually exclusive applications. This licensing scheme is consistent with 900 MHz SMR service.

Specific issues on which the FCC seeks comment include size of licensing areas; channel block size, aggregation, and eligibility; operational flexibility; treatment of incumbents (including interference protection); performance requirements; other operating and technical rules; and auction rules.