

4.3.2. Appeals

All appeals will be processed through the Executive Board.

4.3.3. Withdrawal or Disqualification of an Appeals committee Member for Bias

Where the Chairperson or an Appeals committee member becomes aware of any facts that would lead an informed person, viewing the matter reasonably and practically, to conclude that a member, whether consciously or unconsciously, would not decide a matter fairly, the member will be prohibited from hearing the appeal unless consent is obtained from all parties to continue. In addition, any party to an appeal may challenge a member on the basis of real or a reasonable apprehension of bias.

4.3.4. Correspondence (Communicating) with the Appeals committee

To ensure the appeal process is kept open and fair to the participants, any correspondence will be sent to all Region 13 Appeals committee members and Chairperson.

committee members will not contact a party on any matter relevant to the merits of the appeal unless that member puts all other parties on notice and gives them an opportunity to participate. The appeal process is public in nature and all meetings regarding the appeal will be open to the public.

4.3.5. What Can Be Appealed

The Appeals committee hears appeals from a determination or allocation and shall include the following: number of channels assigned, ranking in the assignment matrix, interference, or any other criteria that the region shall establish.

4.3.6. Who Can Appeal

The official who filed the original application to the RPC must file the appeal on behalf of the entity.

4.3.7. How to Appeal

A notice of appeal must be served upon the RPC. The notice of appeal shall be delivered to the office of the Chairperson and forwarded to members of the Region Implementation Committee as listed in the Official Membership List by email, mail, courier, or in person. The Committee will also accept a notice of appeal by facsimile to the Chair and Secretary with the original copy of the notice of appeal served as indicated above.

To be accepted, the notice of appeal **must** include:

- a. The name and address of the appellant;
- b. Name of the representative making the request for an appeal on behalf of

the appellant;

- c. Address for service of the appellant;
- d. Grounds for appeal (a detailed explanation of the appellant's objections to the determination and a description of errors in the decision);
- e. Description of the relief requested (what do you want the Committee to order at the end of the appeal); and
- f. Signature of the appellant or the appellant's representative.

4.3.8. Time Limit to Appeal

To appeal a determination or allocation, the entity that is subject to the determination must deliver a notice of appeal 20 business days after receiving the decision. If a notice of appeal is not delivered within the time required, the right to an appeal is lost. However, this allowed extending the deadline, either before or after its expiration date based upon a majority vote of the RIC.

4.3.9. Extension

The RPC has the discretion to extend the time to appeal either before or after the 20 business days. A request for an extension should be made in writing to the RPC and include the reasons for the delay in filing the notice of appeal and any pertinent reasons which the requester believes support the granting of an extension of time to file the appeal. A request for an extension should accompany the notice of appeal.

In deciding whether to grant an extension, the RPC will consider whether fairness requires an extension. The Committee will take into account the length of the delay, the adequacy of the reasons for the delay, the prejudice to those affected by the delay, and any impacts that may result from an extension. Other factors not identified could be relevant depending on the circumstances of the particular case.

4.3.10. Rejection of a Notice of Appeal

The Region Planning Committee may reject a notice of appeal if:

- a. It is determined that the appellant does not have standing to appeal; or
- b. The Committee does not have jurisdiction over the subject matter or the remedy sought.

Prior to the formal rejection of a notice to appeal, the RPC will inform the appellant of the intent to reject the appeal, along with the grounds for the rejection. The appellant and other potentially affected parties to the appeal will then have 21 calendar days to submit additional supporting documentation and comments to the RPC.

4.3.11. Adding parties to the Appeal

In addition to the parties mentioned above, the Appeals committee has the discretion to add any other person who may be “affected” by the appeal as a party to the appeal. Anyone wishing to obtain party status should make a written request to the Appeals committee as early as possible. The written request should contain the following information:

- a. Name, address, telephone and fax number, if any, of the person submitting the request;
- b. A detailed description of how the person is “affected” by the notice of appeal;
- c. Reasons why the person should be included in the appeal;
- d. Signature of the person submitting the request.

4.3.12. Mediator

The Appeals committee may also invite or permit an individual to participate in a hearing as a Mediator. The NRPC Mediator is acknowledged by the FCC as the accepted neutral party with relevant expertise or view in relation to the subject matter of the appeal. The written request should contain the following information:

- a. Name, address, telephone, and fax number, if any, of the person submitting the request;
- b. Detailed description of how the person has interest in the appeal;
- c. Evidence that the person has relevant expertise that would assist in the adjudication of the appeal;
- d. Signature of the person submitting the request.

4.3.13. Type of Appeal (Written or Oral) Hearing

An appeal may be conducted by written submissions, oral hearing, or a combination of both. The Appeals committee will determine the appropriate type of appeal after a complete notice of appeal has been received. The committee will normally conduct an oral hearing, although in certain cases, it may order a hearing by written submissions. If written submissions are being utilized, input from all of the parties will be considered.

4.3.14. Burden of Proof

The general rule is that the burden or responsibility of proof is on the person who asserts it.

4.3.15. Notification of Expert Evidence

The Appeals committee requires any party presenting expert evidence at a hearing, and all other parties to the appeal, provide the committee with reasonable advance notice that an expert may be called to give an opinion. The notice should include a brief statement of the expert's qualifications and areas of expertise. If a party intends to produce a written statement or report prepared by an expert, a copy of the statement or report should be provided to the subcommittee and all parties to the appeal within a reasonable time before the statement or report is given in evidence. Unless there are compelling reasons for later admission, expert reports should be distributed 30 days prior to the hearing date.

4.3.16. Documents

If a party will be referring to a document that was not provided to the Appeals committee and all parties prior to the hearing, sufficient copies of the document must be brought to the hearing for the subcommittee and all other parties to review. CAPRAD will be used to transfer documents concerning an appeal of an application.

4.3.17. Appealing the Appeals committee's Decision

If a party is not satisfied with the decision of the Appeals committee, that decision can be appealed to the 700 MHz National Planning Council Oversight Committee or the FCC.

5. PROCEDURES FOR FREQUENCY COORDINATION

5.1. Process

The frequency allotment methodology is based on the first-come, first-served basis of eligible parties.

CAPRAD is the accepted centralized repository of all frequency allotments within the Region. CAPRAD is available for review to anyone that registers as a user.

5.2. Coverage

It is the responsibility of the RPC to restrict or limit the coverage to the area of the applicant jurisdiction. The most recent TIA/EIA TSB88-A standard will be used. This plan uses some of the standards developed for the 800 MHz NPSPAC as follows: the desired coverage of a system is considered to be, as a maximum, three (3) miles (5 KM) outside of the boundary of the applicant's serviced jurisdiction. The maximum "designed mean signal strength" at this contour shall be at least +40dB or greater (+40dB above one micro-volt per meter), using six (6) feet above ground with a ¼ wave whip antenna.

5.3. Interference

Co-channel and adjacent channels assignments will be made in accordance with the most recent TIA/EIA TSB88-A standard. This plan will not protect agencies from interference if their systems are poorly designed or utilize low-quality equipment.

5.4. 700 MHz Public Safety Frequency Pre-Coordination Database

The Computer Assisted Pre-Coordination Resource and Database (CAPRAD) system features website access with a graphical user interface, an informational front page, and secure access for registered users. The system is comprised of several interactive, relational databases that provides a frequency availability “notebook,” search and report generating tools, interface to the FCC’s automated systems. This access includes the Universal Licensing System (ULS) with nightly data comparison and updates and online help features for queries, entries, and updates.

The system serves as a repository for supplemental information such as: completed regional and state plans, a list of television channels with potential impact, the final FCC Report and Order frequency table, contact information for RPC chairpersons or others as required, and RPC frequency limitations by regions and adjacent regions.

CAPRAD is managed locally by Region 13 Chairperson and other personnel within Region 13 executive committee. The National Regional Planning Committee (NRPC) and Association of Public Safety Communications Officials (APCO) administer CAPRAD throughout the nation.

6. ADJACENT REGION COORDINATION

Region 13 has adopted the use of the CAPRAD system for frequency allotments and management. This region will post its 700 MHz plan on the CAPRAD system for review and comment from adjacent regions. The use of CAPRAD will virtually eliminate the need for detailed border coordination with neighboring states. However, in the event of border conflict regarding spectrum allocations or implementation, which cannot be resolved between the affected regions, the parties to the dispute will request a hearing by the national Regional Planning Oversight Committee. See Appendix I for details and Inter-Regional Dispute Resolutions Agreements signed by Adjacent Regions 4, 14, 15, 17, 24, 39, 45, and 54.

7. CERTIFICATION

I hereby certify that all planning committee meetings, including special or executive committee meetings are made public and meet the criteria of the Illinois Open Meetings Act and are consistent with the Illinois Open Meetings Act.

Signed _____