

5.6 Rules of Engagement

5.6.1 Current Situation

Over the last several years, SFPO has used Rules of Engagement to define applicant and NRC interactions during the license review. The rules apply to Part 71, Part 72, and Dual Purpose casework. There are no Rules of Engagement specified for other activities (e.g., QA reviews). A management concern from the TF charter stressed the desire that Rules of Engagement should be applied uniformly to all SFPO licensing actions, i.e., Part 71, 72 and QA. The ten currently effective Rules of Engagement have been presented by SFPO management in several forums (e.g., pre-licensing meetings), beginning ca. 1998, to be:

- i. Partial or incomplete applications will be returned to the applicant.
- ii. Review of RAI response will not start until a complete response is received.
- iii. Applicant's failure to meet schedule will cause rescheduling of entire review.
- iv. Applicant to identify and explain the reasons for all deviations from the standard review plan.
- v. With SRP in place, NRC goal is no RAI for any new application or amendment
- vi. One RAI (perhaps two) will be considered acceptable.
- vii. If more than two RAIs are needed, staff will:
 - Identify its position and concerns
 - Suspend further technical review pending certification of application sufficiency by the respective owners group or other independent third party review group.
- viii. RAIs will be discussed in a public meeting.
- ix. If applicant is unable to meet the NRC published schedule for any milestone, a letter must be submitted at least two weeks in advance of the milestone providing the new submittal date and the reasons for the requested change.
- x. NRC will assess the impact and publish the revised schedule.

For Part 71 casework, all the rules are being followed, except for rules no. ix., and x., which imply that the schedule is to be “published.” The meaning of “published” is unclear. There is a schedule that is developed and circulated in-house. The Part 71 applicant is not knowledgeable of our internal schedule, other than through verbal communication. Then, when an RAI is sent to the applicant, per the internal schedule, the applicant is notified in writing of the due date.

For Part 72 and Dual Purpose casework, none of the rules are followed 100%. Additionally, awareness of the rules appears to be waning over time, and not well advertised to the NRC staff and front office. There is some confusion as to the meaning of particular rules (e.g., Review of RAI response will not start until a complete response is received - - although this rule is meant to address partial responses, the meaning of partial response can be subject to varying interpretation - - e.g., an applicant might claim a promise/schedule to deliver details on an individual RAI response is responsive)

As previously mentioned, Rules of Engagement are not used for QA program reviews.

5.6.2 Survey Results

Survey respondents unanimously supported having Rules of Engagement, but offered many suggestions to clarify, amend, or omit particular rules. Eight comments suggested that Rule no. v. be omitted because it conflicts with Rule iv, and could lead to negative effects on public confidence. Survey results are attached to this report (Attachment 3).

5.6.3. Recommendation

The TF recommends a revised set of the Rules of Engagement, to simplify, consolidate, clarify, and align with actual practice:

- i. *SFPO will issue an acknowledgment letter and schedule for all incoming actions (e.g., new applications, amendments, RAI responses) within 30 days of receipt.*
- ii. *An RAI response that is non-substantive will be returned - - the technical response to each request must be provided before NRC’s technical review of the application restarts.*

- iii. *An applicant who cannot meet the schedule should submit a letter with the new response date. Upon receipt of the response, SFPO will send the applicant an acknowledgement letter with a revised schedule. If an applicant does not submit the letter within 2 weeks of the deadline, SFPO will terminate the application review and notify the applicant.*
- iv. *Staff review is expedited when:*
- *the application is very clear, well organized, stand alone, and of extremely high quality*
 - *the issues in the SAR are thoroughly explained, have enough information for a technical reviewer to perform a confirmatory review*
 - *the applicant provides instructions regarding how to update the master copy each time amended SAR information is submitted*
 - *changes are presented in the form of redline, strikeout, and change bars*
 - *proposed changes are tabulated*
 - *explanation for all deviations from the standard review plan are tabulated*
 - *for a new application, a draft CoC is submitted*
 - *for an amendment, a draft mark up to a CoC is submitted*
- v. *SFPO will not initially schedule a second round of RAIs. If a second RAI is needed, and the responses to the second RAI are not sufficient for SFPO to make a safety basis, then SFPO will identify its positions and concerns in a public meeting, and suspend further technical review. All RAI responses will be issued formally, in writing, and will be registered in ADAMs as publicly available.*
- vi. *If the Applicant requests to discuss RAI resolution with Staff, then SFPO will schedule a public meeting. If the Applicant requests clarification of an unclear RAI, then SFPO may schedule a brief telecon with the appropriate Technical Reviewer to provide clarification.*

Note that for rule "i," the TF recommends that the schedule provided to applicants should not be specific date, but rather the month or quarter. The internal schedule will contain dates, shared between PMs and Tech Reviewers. Among other things, this permits greater flexibility to permit staff time to address emergent, non-scheduled work.

Regarding rule “ii,” the PM will perform an administrative review of the incoming RAI response, similar to the Acceptance Review that is performed for the incoming application or amendment. At the end of this review, upon finding of a complete response, an acknowledgement letter should be sent to the applicant including a schedule for the rest of the review through the SER. The intent of this rule to discourage an applicant only sending in 5 out of 6 responses to RAIs, and to discourage an applicant from responding to the 6th missing one, “RAI No. 6 will be submitted to NRC one month from today” – and counting that as a response.

For rule “iii,” the concept of terminating the review comes from IMNS, and the timeframe is arbitrary. There is no monetary penalty for rejection or re-submittal (i.e., there are no application submission or restart fees).

For rule “iv,” the TF suggests that applicants who meet the above expectations may be processed with one or no RAIs. Explanatory material (e.g., in presentations) for the rule could make this point, noting that “it has been NRC staff’s experience that applicants who meet the above expectations may be processed with one or no RAIs. The TF does not recommend a specific rule limiting a review to one round of RAI (as that rule is not followed), however, one round should be the goal for all reviews.

Regarding rule “v,” the intent of this rule is to discourage “stealth RAIs,” and to encourage good recordkeeping for licensee interactions on the licensing basis.