

Meeting Agenda Board of Trustees Compliance Committee

July 29, 2008 | 11:30 a.m.–12:30 p.m. Eastern Time

Hyatt Regency
1255 Jeanne-Mance Street
Montreal, QC H5B Canada
514-982-1234

Welcome and Determination of Quorum

NERC Antitrust Guidelines

- 1. Overview of Meeting Objectives and Process**
- 2. Minutes of May 6, 2008 Meeting (Item 2)**
 - Action — Approve Minutes
- 3. Current Status of Post-June 18 Alleged Violations of Reliability Standards**
 - a. Violation Process States Flowchart (**Item 3.a**)
 - b. Violation Process State Summary Table — Enforceable Alleged Violations (**Item 3.b**)
 - c. Summary Table of All post-June 18, 2007 Alleged Violations (**Item 3.c**)
 - d. Top Enforceable Violated Standards through July 21, 2008 (**Item 3.d**)
- 4. Current Status of Mitigation of Violations of Reliability Standards**
 - a. Mitigation Process States Flowchart (**Item 4.a**)
 - b. Mitigation Process State Table — Enforceable Alleged Violations (**Item 4.b**)
 - c. Mitigation Summary of pre-June 18, 2007 Violations (**Item 4.c**)
- 5. Compliance Committee Work Plan to Address Issues Related to the NERC Compliance Monitoring and Enforcement Program (Item 5)**
 - Action — Review Work plan
- 6. FERC Guidance Order on Reliability Notices of Penalty**
- 7. System Events**
- 8. Other Matters**

Antitrust Compliance Guidelines

I. General

It is NERC's policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC's compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC's antitrust compliance policy is implicated in any situation should consult NERC's General Counsel immediately.

II. Prohibited Activities

Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information and participants' expectations as to their future prices or internal costs.
- Discussions of a participant's marketing strategies.
- Discussions regarding how customers and geographical areas are to be divided among competitors.

- Discussions concerning the exclusion of competitors from markets.
- Discussions concerning boycotting or group refusals to deal with competitors, vendors or suppliers.
- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC's General Counsel before being discussed.

III. Activities That Are Permitted

From time to time decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC's Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC reliability standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising reliability standards, special operating procedures, operating transfer capabilities, and plans for new facilities.
- Matters relating to the impact of reliability standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system.
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities.
- Matters relating to the internal governance, management and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.

Meeting Minutes — Draft

Board of Trustees Compliance Committee

May 6, 2008 | Orlando, Florida

Welcome and Introductions

Chairman Paul Barber called to order the duly noticed meeting of the Board of Trustees Compliance Committee on May 6, 2008 at 12:29 p.m., and a quorum was declared. The meeting attendance list and agenda are attached as **Exhibits A** and **B**, respectively.

NERC Antitrust Guidelines

Chairman Barber reviewed the guidelines as required.

Agenda Review

This being the first open meeting of the Board of Trustees Compliance Committee, Chairman Barber gave a brief introduction regarding the processes for alleged violations and mitigation plans. He reviewed the types of information that will be presented at future open meetings, and discussed what information is presented at closed meetings of the committee.

Violation Process States Flowchart

David Hilt presented the violation process states flowchart. It is a diagram that aligns with the Rules of Procedure and Uniform Compliance Monitoring and Enforcement Program documents and identifies points in the process to identify bottlenecks, etc. The committee approved the diagram to be used as a general overview of the process.

Process State Summary Table

Mike DeLaura presented the total numbers of alleged violations by region and process state as of April 25. In the future, timing will be monitored to aid in determining how effectively violations are being processed. Chairman Barber requested that NERC staff consider that the numbers for the open meetings be run from the database quarterly.

Mitigation Plans

David Hilt presented the mitigation process states diagram flowchart. The regions still are working with NERC in developing the mitigation states and NERC is looking for the committee's input. The committee gave NERC staff several suggestions for improvements.

Tim Kucey presented the mitigation plans process state table that provides numbers of mitigation plans by state and by region. There is an important distinction that a mitigation plan may be

completed before the mitigation plan is received and approved at NERC.. Mr. Kucey also highlighted that a mitigation plan may cover several alleged violations that are related.

Tim Kucey presented chart of pre-June 18, 2007 mitigation plans. Chairman Barber expressed concern that there are still mitigation plans that have not been verified as completed by the Regions for pre-June 18, 2007 and would like the Regions to focus on this. If a registered entity expects to miss the target completion date of a mitigation plan they need to request an extension. Mr. Kucey informed the committee of a request from FERC staff asking about a small number of these plans to see if they were completed, as well as requesting verification from the regions. NERC is in the process of responding.

Compliance Trends

Mike DeLaura presented the most frequently reported standards that have been violated. CIP-001, PRC-005, and FAC-008 are the top three. Protection system violations are of a high concern.

2007 Annual Report

Dave Hilt presented the 2007 CMEP Annual Report. It is still in draft form and was provided for informational purposes. NERC has taken a different approach this year, collaborated with the regions, and worked with Julia Souder on the outline. The report focuses on the program implementation, transition to the mandatory program, and provides results and findings. It also identifies key issues, areas for improvement, and best practices. The report is currently being reviewed by the regions and the Compliance and Certification Committee (CCC). The committee would like more information in the report regarding registration appeals and enforceability status in various jurisdictions.

Organization Registration

David Hilt provided registration information numbers, how many registered by region and by function, there are 1,836 total entities registered for 4,461 functions. NERC and the Regions are moving forward with IA registration.

Regional Entity Audits

NERC is required in the CMEP to audit the Regional Entities, and for NERC to be audited as well. NERC compliance staff is working with the legal and finance departments in preparation for NERC's review of Regional Compliance Programs. NERC will work to define the scope of the regional audit program and is presenting to CCC for their input. NERC staff will not perform audit, rather a recognized firm will be hired to audit based on the ROP, CMEP, and delegation agreements and audit scope document. The CCC will have an oversight of the Regional Compliance Program audits. Ellen Oswald is working to create regional program audit worksheets (RPAW). The results of the audits will be presented to the CCC and this committee. Several Regions have volunteered to participate for audits in 2008.

System Events

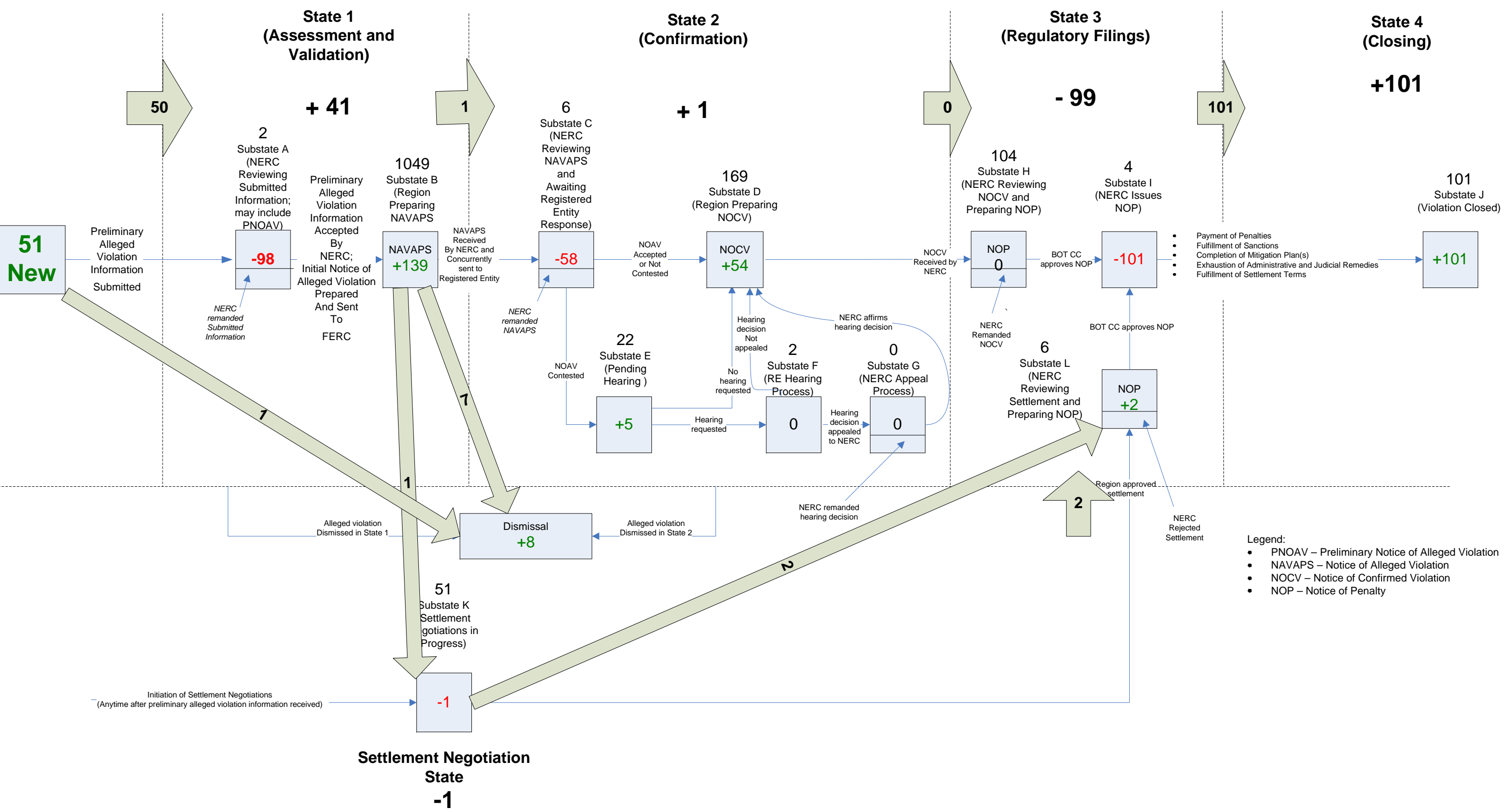
There were no major system events to report.

Closed Session

Chairman Barber excused all but the closed session participants at 12:27 p.m.

Violation Process States and Underlying Process Sub states

Snapshot comparison between June 26, 2008 and July 21, 2008



Violation Process State Summary Table — Enforceable Alleged Violations

Below is a breakdown, as of July 21, 2008, of the Compliance Monitoring and Enforcement Program (CMEP) Violation “state” summary for all 1516 violations.

| Region | State 1 (Assessment and Validation) | | State 2 (Confirmation) | | | | | Settlement | State 3 (Regulatory Filings) | | | State 4 (Closing) | Total |
|---------------------|--|--|---|---------------------------------------|---------------------------------|------------------------------------|-------------------------------------|---|-------------------------------------|---|---------------------------------|----------------------------------|-------------|
| | Substate A (NERC Reviewing) | Substate B (Region Preparing NAVAP) | Substate C (NERC Reviewing NAVAP and awaiting RE Response) | Substate D (Region Preparing NOCV) | Substate E (Pending Hearing) | Substate F (RE Hearing Process) | Substate G (NERC Appeal Process) | Substate K (Settlement Negotiations) | Substate H (NERC Reviewing NOCV) | Substate L (NERC Reviewing Settlement Agreement) | Substate I (NERC Issues NOP) | Substate J (Violation Closes) | |
| FRCC | 0 | 41 | 6 | 17 | 0 | 0 | 0 | 0 | 16 | 0 | 0 | 0 | 80 |
| MRO | 0 | 12 | 0 | 0 | 0 | 2 | 0 | 0 | 30 | 0 | 1 | 6 | 51 |
| NPCC | 0 | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 12 | 29 |
| RFC | 0 | 51 | 0 | 14 | 2 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 69 |
| SERC | 1 | 41 | 0 | 0 | 0 | 0 | 0 | 35 | 12 | 6 | 0 | 70 | 165 |
| SPP | 0 | 5 | 0 | 42 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 5 | 54 |
| TRE | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 15 | 18 | 0 | 2 | 8 | 44 |
| WECC | 1 | 882 | 0 | 96 | 19 | 0 | 0 | 0 | 26 | 0 | 0 | 0 | 1024 |
| TOTAL | 2 | 1049 | 6 | 169 | 22 | 2 | 0 | 51 | 104 | 6 | 4 | 101 | 1516 |
| Percentage of Total | 0% | 69% | 0% | 11% | 2% | 0% | 0% | 3% | 7% | 0% | 0% | 7% | |

Definitions

- Substate A = Preliminary Notice of Alleged violation information has been received from the Region but no Initial Notice has been issued to FERC.
- Substate B = NERC is awaiting receipt of Notice of Alleged Violation Proposed Penalty or Sanction from the Region.
- Substate C = NERC has received Notice of Alleged Violation Proposed Penalty or Sanction and is awaiting acceptance, auto acceptance or contest.
- Substate D = Region received acceptance letter from Registered Entity, or 30 day clock expired and violation is Auto Accepted and is now Confirmed.
- Substate E = Region has received letter contesting violation from Registered Entity.
- Substate F = Region has received request for Hearing from Registered Entity.
- Substate G = NERC has received request for Appeal from Registered Entity.
- Substate H = NERC has received a Notice of Confirmed Violation from the Region.
- Substate I = Violation is Confirmed/Settled and a Notice of Penalty has been issued by NERC to Registered Entity and submitted to FERC.
- Substate J = Payment of Penalties, Fulfillment of Sanctions, Completion of Mitigation Plan, Exhaustion of Administrative and Judicial Remedies, and Fulfillment of Settlement terms have all been met and violation is closed.
- Substate K = Settlement negotiations are in progress.
- Substate L = NERC has received a Settlement Agreement from the Region.

* Includes new violations processed through 7/21/2008.

Summary of All Post June 18th Alleged Violations by Region

Item 3.c

Table 1 is a breakdown, as of July 21, 2008 of the Compliance Monitoring and Enforcement Program (CMEP) alleged violation summary for all 1785 submitted violations.

Table 1

| Region | No. of Violations | Dismissed | Non Enforceable | Enforceable | Non-Document Related | Document Related | Closed |
|--------------|-------------------|------------|-----------------|-------------|----------------------|------------------|------------|
| FRCC | 85 | 0 | 5 | 80 | 46 | 34 | 0 |
| MRO | 61 | 6 | 4 | 51 | 13 | 38 | 6 |
| NPCC | 38 | 8 | 1 | 29 | 1 | 28 | 12 |
| RFC | 71 | 1 | 1 | 69 | 38 | 31 | 0 |
| SERC | 178 | 9 | 4 | 165 | 51 | 114 | 70 |
| SPP | 54 | 0 | 0 | 54 | 34 | 20 | 5 |
| TRE | 45 | 1 | 0 | 44 | 29 | 15 | 8 |
| WECC | 1253 | 220 | 9 | 1024 | 501 | 523 | 0 |
| Total | 1785 | 245 | 24 | 1516 | 713 | 803 | 101 |

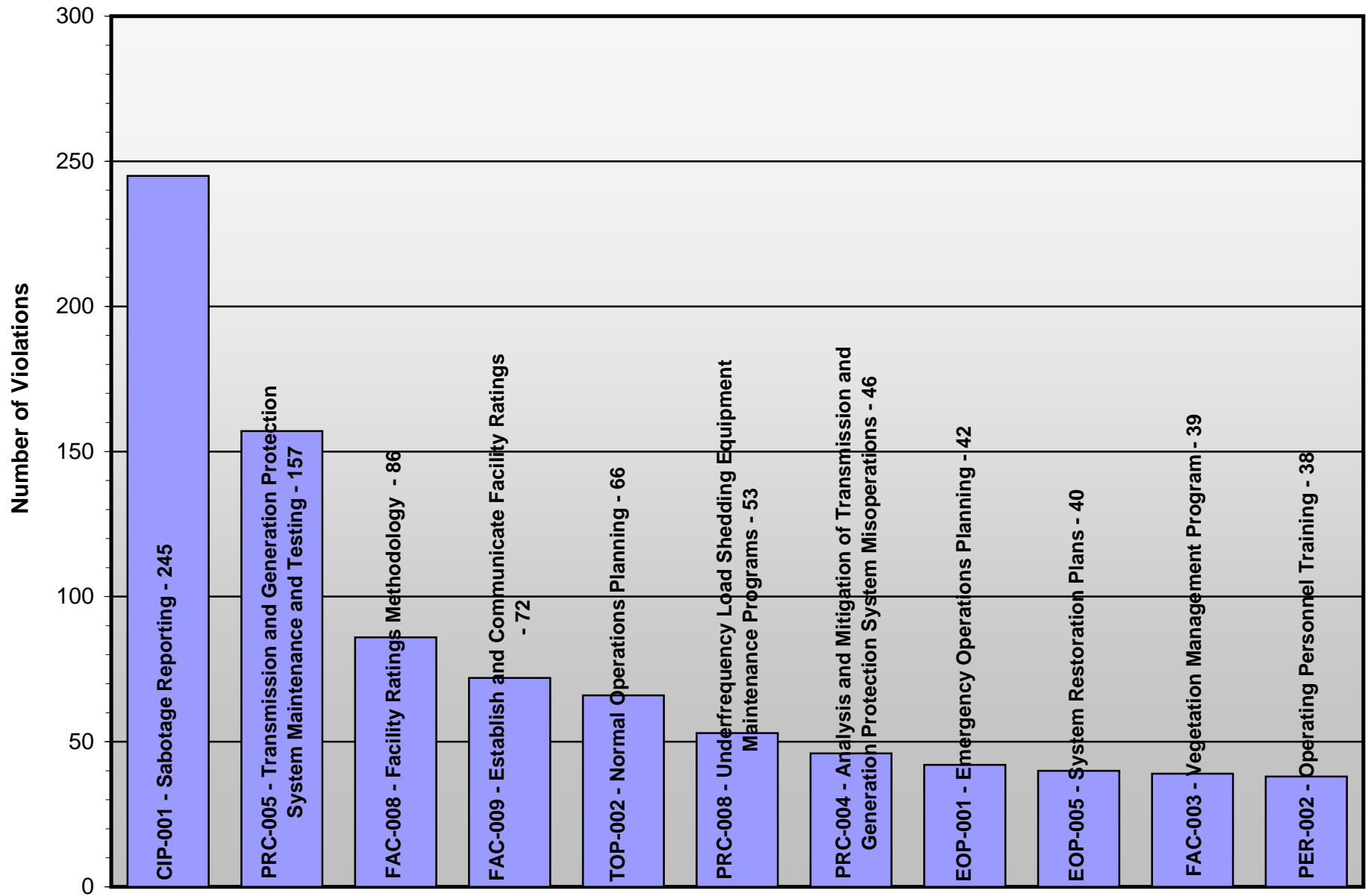
* Includes new violations processed through 7/21/2008 .

† 106 of the WECC dismissals were for pre-June 25 violations by qualifying facilities.

Post June 18 State Summary

Report Date: 7/22/2008

Top Enforceable Violated Standards thru July 21, 2008



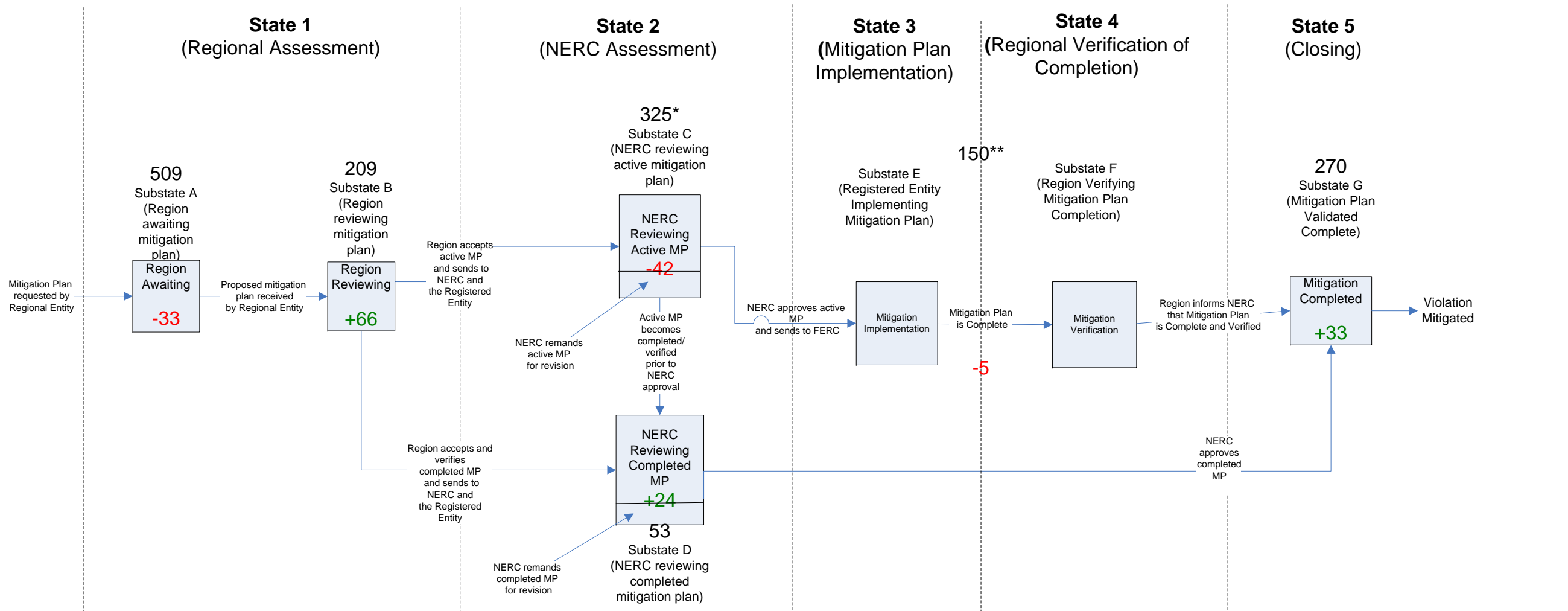
Standards

Confidential

Excludes non-enforceable and dismissed violations.

Mitigation Process States and Underlying Process Substates

Snapshot comparison between June 26, 2008 and July 21, 2008



* The current 325 violations in Substate C include 146 (314 last month) accepted violation mitigation plans not received from the region and 179 (53 last month) violation mitigation plans under NERC review.

** The current 150 violations in Substates E and F will be appropriated to each substate prior to the July 29th meeting.

Mitigation Plans Process State Table — Enforceable Alleged Violations

Below is a breakdown, as of July 21, 2008, of the Compliance Monitoring and Enforcement Program (CMEP) Mitigation Plan “state” summary for all 1516 violations.

| | State 1 (Regional Assessment) | | State 2 (NERC Assessment) | | State 3 (Mitigation Plan Implementation) | State 4 (Regional Verification of Completion) | State 5 (Closing) | | |
|----------------------------|----------------------------------|------------------|--------------------------------------|--------------------------|---|--|--|------------------------------------|-------------|
| Region | Substate A | Substate B | Substate C | | Substate D | Substate E | Substate F | Substate G | Total |
| | Region Awaiting | Region Reviewing | Accepted MP Not Received from Region | NERC Reviewing Active MP | NERC Reviewing Completed MP | Registered Entity Implementation | NERC Awaiting Regional Verification of MP Completion | Mitigation Plan Validated Complete | |
| FRCC | 31 | 5 | 0 | 0 | 0 | 19 | 9 | 16 | 80 |
| MRO | 14 | 0 | 0 | 0 | 1 | 0 | 0 | 36 | 51 |
| NPCC | 12 | 0 | 0 | 0 | 0 | 0 | 1 | 16 | 29 |
| RFC | 32 | 6 | 0 | 0 | 0 | 4 | 1 | 26 | 69 |
| SERC | 73 | 1 | 0 | 0 | 0 | 0 | 2 | 89 | 165 |
| SPP | 3 | 31 | 1 | 0 | 0 | 4 | 0 | 15 | 54 |
| TRE | 16 | 0 | 0 | 6 | 0 | 0 | 2 | 20 | 44 |
| WECC | 328 | 166 | 145 | 173 | 52 | 62 | 46 | 52 | 1024 |
| TOTAL | 509 | 209 | 146 | 179 | 53 | 89 | 61 | 270 | 1516 |
| Percentage of Total | 33.57% | 13.78% | 9.63% | 11.8% | 3.49% | 5.87% | 4.02% | 17.81% | |

Definitions

Substate A = Region is still awaiting receipt of mitigation plan from Registered Entity.

Substate B = Region has received mitigation plan and is reviewing.

Substate C = NERC has received mitigation plan and is reviewing. Also includes any mitigation plans not yet received by NERC.

Substate D = Mitigation plan has been verified completed by the Region but is still awaiting approval by NERC.

Substate E = Mitigation plan has been approved by NERC, and sent to FERC, but has not been completed.

Substate F = Mitigation Plan has been completed per Registered Entity and is being verified by the Region.

Substate G = Mitigation plan has been verified completed by Region, has been approved by NERC, and sent to FERC.

- Includes new violations processed through 7/21/2008.

Report Date: 7/21/2008

Unmitigated Violations Summary of Pre-June 18th Violations

Below is a breakdown of the remaining unmitigated pre-June 18th violations occurring between January 2005 and June 18, 2007, by Region, updated as of July 21, 2008.

| | 2005 Unmitigated | | | 2006 Unmitigated | | | 2007 Unmitigated | | | All Years | |
|--------------|------------------|------------------|-------------------|------------------|------------------|-------------------|------------------|------------------|-------------------|-------------------|-------------|
| | Alleged | Target Date Past | Total Unmitigated | Alleged | Target Date Past | Total Unmitigated | Alleged | Target Date Past | Total Unmitigated | Total Unmitigated | % of Total |
| TRE | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0% |
| FRCC | 0 | 0 | 0 | 0 | 2 | 2 | 39 | 23 | 40** | 42 | 9% |
| MRO | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| NPCC | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| RFC | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11 | 12 | 12 | 2% |
| SERC | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 8 | 8 | 2% |
| SPP | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0% |
| WECC | 0 | 0 | 0 | 0 | 8 | 8 | 6* | 223 | 409*** | 417 | 87% |
| TOTAL | 0 | 0 | 0 | 0 | 10 | 11 | 45 | 258 | 470 | 481 | 100% |

Definitions

Target Date Past = Violations that are listed as “In Progress” or “To be determined” per the region’s linear spreadsheet that have an Estimated Mitigation Completion Date which has past.

*WECC alleged violations are considered to be RMS violations.

**Completed mitigated violations in review by FRCC and not reflected in the above Unmitigated numbers: 160.

***Completed mitigated violations in review by WECC and not reflected in the above Unmitigated numbers: 750.

Compliance Committee Work Plan to Address Issues Related to the NERC Compliance Monitoring and Enforcement Program

Draft 1
July 17, 2008

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Introduction

Purpose

The *Compliance Committee Work Plan to Address Issues Related to the NERC Compliance Monitoring and Enforcement Program* establishes an approach to addressing issues raised regarding the NERC Compliance Monitoring and Enforcement Program after its first full year of operation with mandatory and enforceable standards in the United States. It also serves to communicate to the industry participants and governmental authorities to whom NERC is accountable as the ERO how the issues will be prioritized and ultimately considered by the Compliance Committee. This work plan will require continuing input and support by the users, owners, and operators of the bulk power system, the approved regional entities, NERC staff, and in some cases governmental authorities.

Background

Following the May, 2008 NERC Board of Trustees meeting, three Board committees were tasked with reviewing the policies, procedures, and priorities within three NERC program areas. The Compliance Committee was tasked with reviewing the policies, procedures, and priorities within the compliance program. To jump start the work of the Board committees, NERC staff collected suggestions of policy, procedure, and process **questions** that are important for the committees to address. That initial request to provide input on suggested questions went to the Board of Trustees and the Regional Entity executives. Each committee was expected to consider this initial input and to seek other input as it deemed necessary to fully address their appointed program area.

The questions submitted on compliance issues were initially grouped into five areas for consideration by the Compliance Committee. The questions were not organized with the five groups in any particular manner, instead leaving that to the work of the committee. The five areas are:

1. Review the prioritization of effort within the Compliance Program
2. Review the compliance process to achieve greater efficiency, clarity, consistency, and effectiveness
3. Reexamine NERC's relationship with FERC regarding the Compliance Program
4. Review overall stakeholder participation in the compliance process
5. Review the relationship between NERC and the Regional Entities on the execution of the Compliance Program

Work Plan Strategy

The work plan has been designed to allow for a structured and logical approach to addressing the issues identified given limited resources of the Compliance Committee, NERC's staff, and the Regional Entities' staffs to complete the review and implementation of outcomes from this work plan.

This structure allows the establishment of priorities by the committee based on broad categories of issues which are further divided among three general classifications based on the time frame by which an outcome could be realized and an issue resolved. These classifications include:

Short Term - Actions the Compliance Committee could resolve before the end of 2008 by collecting necessary information and rendering a decision. These decisions would not require rules of procedure changes or other regulatory actions and can be accomplished quickly within the current framework.

Medium Term – Actions the Compliance Committee could resolve in the next calendar year. These actions would likely require collection of empirical data or other information from the appropriate source before developing a resolution or action to be taken. These actions must allow sufficient time for support staff and the Compliance Committee to collect, analyze and act upon the data or information and may require the development of new processes or procedures. In some cases close coordination with the appropriate regulatory bodies or governmental authorities may be necessary.

Long Term – These are issues that will likely require a regulatory filing or a change to the Rules of Procedure and may require a significant amount of data to be collected or metrics developed prior to taking action. Collection of sufficient data and information to determine proposed changes to the Rules of Procedure and implementing those changes, including posting and comment periods as required by the Rules of Procedure, would be necessary and may take a year to longer to reach resolution or fully address and implement any recommended actions.

Issues to be Addressed by the Board of Trustees Compliance Committee

The following issues were identified through the comment period following the May 2008 NERC Board of Trustees meeting and assigned for review by the NERC Compliance Committee. These issues are organized into the broad categories initially suggested when the policy, procedure and process questions were collected and further organized based on similar subjects within those categories as part of the Compliance Committee's work. In a number of cases, initiatives have been undertaken within NERC that either attempt to address the issue or may be related to any resolution of the issue. To assist the Compliance Committee in its discussions on each area, current activities underway at NERC are listed with each grouping of issues.

Review the Prioritization of Effort Within the Compliance Program

In doing so, the task force should consider the following:

Short Term:

1. Should the compliance audit program be more targeted?
2. With respect to standards (i.e., focus only on those standards where the risk to the grid is potentially highest) and/or with respect to registered entities (again, focusing on those entities that pose greater potential risk than others)?
3. If the compliance audit program is more targeted do we need to make greater use of spot checks to verify self-certification?
4. Should some entities have a more frequent audit cycle than others?

Current Activity:

NERC recently issued a draft list of actively monitored standards for 2009 to the Regional Entities for consideration. This list is based on an initial “risk based” approach to evaluating those standards that should be subject to self-certification and reviewed during compliance audits. This list for active monitoring now specifically identifies requirements in the Reliability Standards that if violated pose the most risk to the BPS. Factors to determine the list of actively monitored Reliability Standards/Requirements include: Violation Risk Factor, Critical Infrastructure Protection, past industry performance, and past audited entity performance.

The NERC rules of procedure require audits of those with the primary reliability responsibility (reliability coordinators, balancing authorities, and transmission operators) on a three year basis and for everyone else on a schedule established by NERC and the regions. The other entities are currently scheduled to be audited on a 6 year cycle. NERC is only one year into the program and changes to the rules of procedure will require a longer term change. These requirements are minimum requirements and audits can occur if NERC or the regional entity identifies a need for an unscheduled audit.

Medium Term:

1. How can the focus on compliance be realigned to devote more effort to serious violations and prevention rather than requiring a significant procedural and paper burden for all violations including minor ones?

Current Activity:

NERC and the regional entities are working on a process and supporting documents to facilitate the issuance of a pro-forma “short-form” or “standardized” settlement agreement that would be somewhat akin to a “speeding ticket” for violations determined to be minor in nature and not repetitive or in an organization with multiple such infractions. The process would facilitate NERC and the regional entities issuing the pro-forma settlement to the entity at the time the violation was discovered. Such an approach will allow processing for a qualifying violation: (i) in as timely a manner as possible; (ii)

with sanctioning determined from a more pre-defined penalty range, and; (iii) with less significant paper or negotiation activity burden on the entity and NERC or the Regional entity. The entity would still have the opportunity to decline this arrangement in favor of having the violation(s) in question addressed through the conventional non-settlement CMEP process route allowing for full due process. Identification of the information that should be collected to verify the effectiveness of these actions will be important to this on-going activity.

Long Term:

1. Is three years the right audit cycle for all?
2. Should NERC compliance consider dealing in detail (i.e., processing violations through to the penalty stage) with only that subset of its Reliability Standards Requirements that have HIGH VRFs?

Current Activity:

The NERC Rules of Procedure currently approved by FERC require audits of those with the primary reliability responsibility (reliability coordinators, balancing authorities, and transmission operators) on a three year basis and for everyone else on a schedule established by NERC and the regions. The other entities are currently scheduled to be audited on a 6 year cycle. NERC and the industry are only one year into the enforceable program with far less than one full cycle completed. Changes to the rules of procedure will require a longer term change. Collection of data and the development of metrics will be necessary to demonstrate the most effective audit cycle structure and duration.

Review the Compliance Process to Achieve Greater Efficiency, Clarity, Consistency, and Effectiveness

In doing so, the task force should consider the following:

Short Term:

1. Should NERC make public the Penalty Tool?

Current Activity:

NERC has previously responded to this question with a determination not to release the penalty tool on the basis it is an enforcement tool and not subject or available for public scrutiny.

2. What could the Compliance Program do to better measure and report on reliability improvements achieved as a result of this program?

Current Activity:

NERC Compliance Staff provides information to Reliability Performance Staff to compliance reliability performance information.

3. Do we have appropriate feedback processes from compliance to standards development?

Current Activity:

NERC reorganized the compliance department this year to add a focus on Compliance Interfaces including the interface with standards development. Additionally, the Regional Entity compliance managers are working to provide feedback and as an example have requested a formal interpretation of a Reliability Standard this year based on actual field experience in its application. Such feedback will continue moving forward.

4. We recognize the logic of using compliance experience to enhance standards but how do we ensure that appropriate information actually flows and gets acted on?

Current Activity:

NERC utilizes feedback provided by its Regional Coordinators who either participate directly or serve as observers on compliance audits conducted by Regional Entities and provide this information to the Standards Development staff at NERC.

The NERC Compliance and Certification Committee has developed a process for development of compliance administration elements in the standards.

Medium Term:

1. How can NERC ensure consistency of compliance enforcement across the country?
2. Should the regions and NERC bring any differences in audit and compliance assessment methodologies for each standard to the BOT CC for resolution in order to assure uniform application of all standards in all regions?
3. How can NERC give some assurance to the stakeholders regarding risk exposure during compliance audits and the interpretations made therein by the audit team?

Current Activity:

The Reliability Standard Audit Worksheets are continuously being improved to include specific information including NERC Guidance, Regional Entity compliance manager consensus, and excerpts from FERC Orders regarding Reliability Standards and requirements. The Reliability Standard Audit Worksheet and pre-audit questionnaire will be combined into one document per Reliability Standard and this new document will be publicly available to the industry. This increase in transparency will provide additional assurance to the industry stakeholders.

4. Measures are intended to allow the responsible entity that latitude to use a variety of methods to demonstrate compliance. How do we ensure that the Regional Entities (and

NERC Compliance) are not demanding a specific set of evidence be produced to demonstrate compliance and ignoring other evidence that was allowed by the original measure?

Current Activity:

NERC provides required auditor training to all audit team members to assure consistency with the Government Accountability Office (GAO) Generally Accepted Government Auditing Standards (GAGAS) and The Institute of Internal Auditors standards. This year NERC deployed a new training module titled *Gathering Quality Evidence* that emphasizes how an auditor determines if evidence is adequate and how to corroborate the evidence via interviews and other means. Auditing is a defined practice and there is no requirement established in any of the audit training materials that suggest a single set of evidence is all that is acceptable.

NERC currently provides and makes public Reliability Standard Audit Worksheets (RSAW) that contain some level of guidance for compliance audits and types of evidence that may be appropriate to demonstrate compliance with the reliability standards. These can be found at http://www.nerc.com/~comply/auditor_resources.html. These worksheets are currently evaluated by the standards group at NERC to ensure that the worksheets themselves do not interpret the standard itself. When NERC becomes aware of a discrepancy in application of the standards the RSAW for that particular standard is modified to provide additional clarity. This most recently occurred for CIP-001, Requirement 4.

NERC also holds weekly conference calls with the Regional Entity Compliance Managers and discusses issues among the programs and has formed an Audit Observation Team consisting of NERC and Regional Entity staff to highlight, discuss, and resolve issues identified in the audit process. Results of these meetings can result in revised RSAWs for the appropriate reliability standards.

5. Should procedures used by the regional entities to implement delegated activities be approved by the appropriate NERC board committee? (An example here is the WECC process developed separately for disputes of registration issues. WECC is the only region with a separate dispute process for registration matters. While standards processes are required to be approved in the delegation agreement, other processes may exist that have not been reviewed or approved by the ERO.)

6. What policies can NERC adopt to ensure the compliance program is clear, stable, predictable, and transparent with respect to process and outcomes – even the public whom we are protecting would expect nothing less in the execution of compliance monitoring and enforcement?

Current Activity:

NERC currently provided a good deal of publicly available information including, NERC Rules of Procedure, Compliance Monitoring and Enforcement Program, Sanction Guidelines, Notices of Penalty, Settlement Agreements, annual implementation plan, audit schedule, and annual CMEP report along with open reports to the board of trustees.

Recent improvements to transparency include: posting the audit report status on the consolidated audit schedule for the period of 2007 through the present along with completed audit reports of registered entities; including more information on the Reliability Standard Audit Worksheets as described above; posting guidance on the CIP-002 through CIP-009 compliance efforts; posting draft documents for 30-day public comment. These include the *NERC Statement of Compliance Registry Criteria* and the upcoming draft 2009 Implementation Plan.

Long Term:

1. Should NERC adopt a policy to emulate the FERC's process, as articulated in their latest sanctioning policy, regarding the initiation of settlement arrangements? Specifically, as articulated in Section 2(d) paragraph 34 of that policy, before initiating settlements should the REs be allowed to solicit BOTCC "pre-approval" to negotiate within a potential penalty range? This could be done within the current RDAs where the REs would not be "required" to do this (i.e., they keep their current RDA authority to go it alone); however, they would run risk of the BOTCC rejecting settlement amounts that were not so pre-approved.
2. Should the Regional Entity staff be allowed to appeal the decision of a regional hearing body (jury of peers for the registered entity) to NERC if they do not believe the regional hearing body did not act appropriately?

Reexamine NERC's Relationship with FERC Regarding the Compliance Program

In doing so, the task force should consider the following:

Medium Term:

1. NERC can't be industry's partner and FERC's regulatory instrument simultaneously. What should the relationship between NERC and FERC look like?

Review Overall Stakeholder Participation in the Compliance Process

In doing so, the task force should consider the following:

Short Term:

1. Is NERC taking full advantage of the expertise on the Compliance and Certification Committee?

Current Activity:

As part of the CCC charter and in anticipation of the compliance program efforts, the CCC has written and approved procedures for violation hearings, certification hearings, and mediation proceedings. These procedures will be presented to the Board of Trustees for approval at a future meeting. In addition, the CCC recognizes their responsibility to provide oversight and feedback from the stakeholder community in a strategic and concise format. The committee has written and approved procedures offering oversight on NERC's adherence to reliability standards, NERC's adherence to the standards development process, and NERC's adherence to the CMEP. These will also be presented to the board for approval. The CCC and subcommittees have, and will, continue to work with guidance from NERC compliance staff and NERC counsel to systematically identify key performance indicators and provide critical feedback from the stakeholder community, thus optimizing the compliance program efforts.

Review the Relationship Between NERC and the Regional Entities on the Execution of the Compliance Program

In doing so, the task force should consider the following:

Short Term:

1. The MRC is the vehicle that should be used for expressing industry's concerns.
2. Regional Managers in their role as head of the delegated authority for NERC's statutory activities should not be representing Members' concerns about overall budget levels or increases; they should be pushing back in the areas of common interest where they believe that the balance between Regional and NERC efforts is wrong.
3. Should the NERC board approve the scope and other provisions of the Regional Entity Management Group and its various subcommittees as part of the ERO?

Medium Term:

1. How should NERC balance its role in compliance with regard to the need to partner with the regional entities in executing the compliance program versus providing oversight at arm's length? (The emphasis thus far appears to be the latter, which is manifested in

what is sensed to be an underlying distrust that the regions are effectively performing their compliance responsibilities.)

2. Should the NERC Board Compliance Committee and NERC staff shift from duplicate review and approval of all compliance actions and mitigation plans toward a process that provides deference (through consent approval) to the regional compliance authority on the majority of cases and focuses at the NERC level on the most significant cases that are needed to set precedence and guide consistency?

Long Term:

1. Can the program achieve consistency and efficiency with independent governance of the Regions?
2. An abiding concern is the lack of independent governance for the regions. To varying degrees the Regional Managers are answerable more to their stakeholder Boards than to the mandates of their delegation agreements. This has not been a problem yet in the enforcement arena (and may not be in the future) but it shows itself in the budget process.

Schedule for Completion

To be completed upon discussion by the Compliance Committee

Deliverables

To be completed upon discussion by the Compliance Committee