

Agenda Board of Trustees

February 9, 2012 | 8:00 a.m.-12:00 p.m. Mountain

Arizona Grand Resort
8000 S. Arizona Grand Parkway
Phoenix, AZ 85044
602-438-9000

Introductions and Chair's Remarks

NERC Antitrust Compliance Guidelines and Public Announcement

Consent Agenda — Approve

1. Minutes*

- a. January 18, 2012 Conference Call
- b. November 22, 2011 Conference Call
- c. November 18, 2011 Conference Call
- d. November 3, 2011 Meeting

2. Election/Membership Appointments and Changes*

- a. Critical Infrastructure Protection Committee Membership
- b. Compliance and Certification Committee Membership

Regular Agenda

3. President's Report

4. Elections

- a. Chair-Elect/Vice Chair of Board of Trustees
- b. Election and Appointment of Officers

5. Board of Trustees Self-Assessment Results* – Review

6. Electric Reliability Organization Enterprise Strategic Plan 2013-2015 – Review

7. Continent-wide Standard and Interpretations*

- a. Project 2010-07: Generator Requirements at the Transmission Interface – **Approval**
- b. Project 2008-10 Interpretation of CIP-006-1 for Progress Energy – **Approval**
- c. Project 2009-22 Interpretation of COM-002-2 for the IRC – **Consider for Action**

- d. Project 2011-INT-01 Interpretation of MOD-028 for Florida Power & Light Company (Rapid Revision standard) – **Approval**
- 8. **Regional Standard and Standards Development Procedure***
 - a. Reliability Standard PRC-006-NPCC-1 – Automatic Underfrequency Load Shedding – **Approval**
 - b. SERC Reliability Corporation Regional Standards Development Procedure – **Approval**
- 9. **NERC Rules of Procedure: Substantive Revisions* – Approval**
- 10. **Electricity Sector–Information Sharing and Analysis Center (ES-ISAC) Policy Statement* – Approval**
- 11. **Proposed Amendments to Delegation Agreement with Florida Reliability Coordinating Council (FRCC) – Amended Exhibit B (FRCC Bylaws) and Exhibit D (Compliance Monitoring and Enforcement Program)* – Approval**
- 12. **Event Analysis Process Manual* – Approval**
- 13. **Status of Action Items from NERC Three-Year ERO Performance Assessment* – Information**
- 14. **Status of Critical Infrastructure Initiatives* – Information**
- 15. **Legislative and External Affairs Update* – Information**

Standing Committee Reports* (Item 16)

- a. Operating Committee
 - 1. Status Report
 - 2. Strategic Plan
- b. Planning Committee
- c. Critical Infrastructure Protection Committee
- d. Member Representatives Committee
- e. Personnel Certification Governance Committee
- f. Standards Committee
- g. Compliance and Certification Committee
 - 1. Status Report
 - 2. 2012 Work Plan
 - 3. 2011 Stakeholder Perception Survey
 - 4. CCC Spot Check Report of the CMEP
 - 5. CCC Spot Check of Standards Applicable to NERC
- h. Electricity Sub-Sector Coordinating Council

Forum and Group Reports* (Item 17)

- a. North American Energy Standards Board
- b. Regional Entity Management Group
- c. North American Transmission Forum
- d. North American Generator Forum

Board Committee Reports***18. Corporate Governance and Human Resources**

- a. Review of 2011 Year-end Corporate Performance Goals
- b. Review and Approval of 2012 Corporate Performance Goals
- c. Approval of 2012 Board Committee Assignments
- d. Review of Annual Performance of Company Savings and Investment Plan

19. Compliance**20. Finance and Audit**

- a. Review and Acceptance of Unaudited 2011 Year End Financial Statements

21. Standards Oversight and Technology

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.

Draft Minutes Board of Trustees

January 18, 2012 | 11:00 a.m.-Noon Eastern
Conference Call

Chair John Q. Anderson convened a duly noticed open meeting by conference call of the Board of Trustees of the North American Electric Reliability Corporation on January 18, 2012 at 11:00 a.m. Eastern. As required by the bylaws of the Corporation, dial-in listen-only access was provided to members of the Corporation and the public for the meeting. The agenda is attached as **Exhibit A**.

Trustees present on the call in addition to Chair Anderson were Vicky Bailey, Paul Barber, Tom Berry, Fred Gorbet, David Goulding, Ken Peterson, Jan Schori, Roy Thilly, Janice Case, Bruce Scherr and President and CEO Gerry Cauley. Also, present were Carter Edge, Pete Heidrich, Owen McBride, as well as NERC Staff: Herb Schrayshuen, David Cook, Rebecca Michael, and Tina McClellan. Additional attendees are listed in **Exhibit B**.

Antitrust Compliance Guidelines

David Cook, vice president and general counsel, directed the participants' attention to the NERC Antitrust Compliance Guidelines.

Definition of Bulk Electric System (BES Definition); Detailed Information to Support an Exception Request; Implementation Plan

Herb Schrayshuen, vice president of standards and training, reviewed the proposed revised Definition of Bulk Electric System (BES Definition) as well as the Implementation Plan. Mr. Schrayshuen stated the BES Definition has received stakeholder approval and fulfills all requirements necessary to gain FERC approval. Mr. Schrayshuen noted that Carter Edge, SERC; Pete Heidrich, FRCC; and Owen McBride, counsel, joined the call and were available to answer any questions by the Board. At this time Chair Anderson opened to questions/comments by the Trustees. At the conclusion of the discussion, and on motion by Dave Goulding the board approved the BES Definition, Implementation Plan, and to retire the current definition of Bulk Electric System in the NERC Glossary of Terms at midnight of the day immediately prior to the effective date of the revised BES Definition.

BES Exception, Rules of Procedure Change Associated with BES Definition

Mr. Schrayshuen reviewed the Rules of Procedure changes necessary to implement the proposed revised definition of the Bulk Electric System and the procedure for requesting and receiving exceptions to the application of the BES Definition. Mr. Cook made note to an error found in the proposed material on Rule 1701. At the conclusion of Mr. Schrayshuen's review, Chair Anderson opened to questions/comments by the Trustees. An extended discussion ensued regarding the procedure for requesting and receiving exceptions to the application. On motion by Paul Barber the board adopted a

resolution that approved the proposed changes to the Rules of Procedure substantially in the form presented, with the correction to Rule 1701 and changes to the proposed rules to accomplish two things: (1) that the decision of NERC be made by the NERC CEO on advice from the NERC technical panel, and (2) to add a provision that the technical panels be free from conflicts of interest in the matters on which they are providing recommendations.

There being no further business, the call was terminated at 12:10 p.m.

Submitted by,

A handwritten signature in black ink, appearing to read "D. N. Cook".

David N. Cook
Secretary

Draft Minutes Board of Trustees

November 22, 2011 | 2:00-4:00 p.m. Eastern
Conference Call

Chair John Q. Anderson convened a duly noticed open meeting by conference call of the Board of Trustees of the North American Electric Reliability Corporation on November 22, 2011 at 2:00 p.m. Eastern. As required by the bylaws of the Corporation, dial-in listen-only access was provided to members of the Corporation and the public for the meeting. The agenda is attached as **Exhibit A**.

Trustees present on the call in addition to Chair Anderson were Vicky Bailey, Paul Barber, Tom Berry, David Goulding, Ken Peterson, Jan Schori, Roy Thilly, Janice Case, Bruce Scherr and President and CEO Gerry Cauley. Also, present were Planning Committee Chair Jeff Mitchell, Mark Lauby, John Moura, Eric Rollison, Tina McClellan, and David Cook of NERC staff. Additional attendees are listed in **Exhibit B**.

Antitrust Compliance Guidelines

David Cook, senior vice president and general counsel, directed the participants' attention to the NERC Antitrust Compliance Guidelines.

2011 Long-Term Reliability Assessment

Planning Committee Chair Jeff Mitchell introduced the draft 2011 Long-Term Reliability Assessment that had previously been circulated to the board for review. Mark Lauby completed a high level summary of the report noting the report specifically provides a high-level reliability assessment of the 2011 to 2021 seasonal resource adequacy and operating reliability, an overview of projected electricity demand growth, transmission reliability assessment, and detailed regional self-assessments. Next, John Moura reviewed the key findings in the report. At the conclusion of Mr. Moura's summary, Chair Anderson led the board through a section-by-section discussion of the report. Individual trustees raised questions and suggested clarifying edits and revisions. Following extended discussion, on motion of Paul Barber, the board approved the draft 2011 Long-Term Reliability Assessment for publication, subject to the edits and clarifications discussed during the course of the conference call.

2011/2012 Winter Reliability Assessment

Planning Committee Chair Jeff Mitchell introduced the draft 2011/2012 Winter Reliability Assessment that had previously been circulated to the board for review. Eric Rollison reviewed the highlights of the draft report and noted the report covers the four-month (December 2011–February 2012) upcoming winter period and provides an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected winter peak demands. At the conclusion of Mr. Rollison's summary, Chair Anderson led the board through a discussion of the report. Individual trustees raised questions and suggested clarifying edits and revisions. Following extended discussion,

on motion of Bruce Scherr, the board approved the draft 2011/2012 Winter Reliability Assessment for publication, subject to the edits and clarifications discussed during the course of the conference call.

Chair Anderson expressed the appreciation of the board for the outstanding work of the Reliability Assessment Subcommittee and NERC staff in developing both reports.

Technical and Conforming Amendments to Rules of Procedure

David Cook, general counsel, reviewed the redlined changes to Rules of Procedure Appendices 2, 3B, and 3D which are needed to conform the capitalization and definitions to the approach the Board approved on November 3, 2011. Upon Board approval the changes will be incorporated into the overall package of rule changes to be filed with FERC. Upon motion by Ken Peterson the committee approved the amendments.

There being no further business, the call was terminated at 3:25 p.m.

Submitted by,

A handwritten signature in black ink, appearing to read "D. N. Cook".

David N. Cook
Secretary

Draft Minutes Board of Trustees

November 18, 2011 | 2:00-3:00 p.m. Eastern
Conference Call

Chair John Q. Anderson convened a duly noticed open meeting by conference call of the Board of Trustees of the North American Electric Reliability Corporation on November 18, 2011 at 2:00 p.m. Eastern. As required by the bylaws of the Corporation, dial-in listen-only access was provided to members of the Corporation and the public for the meeting. The agenda is attached as **Exhibit A**.

Trustees present on the call in addition to Chair Anderson were Vicky Bailey, Paul Barber, Tom Berry, Fred Gorbet, David Goulding, Ken Peterson, Jan Schori, Roy Thilly, Janice Case, Bruce Scherr and President and CEO Gerry Cauley. Also, present were Mark Lauby, John Moura, Eric Rollison, Tina McClellan, and David Cook of NERC staff. Additional attendees are listed in **Exhibit B**.

Antitrust Compliance Guidelines

David Cook, vice president and general counsel, directed the participants' attention to the NERC Antitrust Compliance Guidelines.

2011 Special Reliability Assessment: A Primer of the Natural Gas and Electric Power Interdependency in the United States

Mark Lauby introduced the draft 2011 Special Reliability Assessment: A Primer of the Natural Gas and Electric Power Interdependency in the United States that had previously been circulated to the board for review. John Moura reviewed the highlights of the draft report. Chair Anderson led the board through a section-by-section discussion of the report. Individual trustees raised questions and suggested clarifying edits and revisions. Following extended discussion, on motion of Bruce Scherr, the board approved the draft 2011 Special Reliability Assessment: A Primer of the Natural Gas and Electric Power Interdependency in the United States for publication, subject to the edits and clarifications discussed during the course of the conference call. Chair Anderson expressed the appreciation of the board for the outstanding work of the Reliability Assessment Subcommittee and NERC staff in developing the report.

There being no further business, the call was terminated at 2:50 p.m.

Submitted by,



David N. Cook
Secretary

Draft Minutes Board of Trustees

November 3, 2011 | 8:00 a.m.-Noon Eastern
Westin Buckhead Atlanta
3391 Peachtree Road, NE
Atlanta, GA 30326

Chair John Q. Anderson called to order a duly noticed meeting of the North American Electric Reliability Corporation Board of Trustees on November 3, 2011 at 8 a.m., local time, and a quorum was declared present. The Agenda and list of attendees are attached as **Exhibits A and B**, respectively.

NERC Antitrust Compliance Guidelines

David Cook, senior vice president and general counsel, directed participants' attention to the NERC Antitrust Compliance Guidelines included in the agenda.

Executive Session

Chairman Anderson reported that, as is its custom, the board met in executive session before the open meeting, without the chief executive officer present, to review management activities.

Consent Agenda

On motion of President and CEO Gerry Cauley, the board approved the consent agenda, as follows:

Minutes

The board approved the August 4, 2011 draft minutes (**Exhibit C**).

Committee Membership Appointments and Charter Changes

The board approved the proposed nominations to the membership of the Compliance and Certification, and Critical Infrastructure Protection committees (**Exhibit D**).

Commissioners' Remarks

Mr. Cauley welcomed Commissioners Norris and LaFleur to the meeting. Commissioner Norris spoke with respect to reliability and is looking forward to open discussions on what is the adequate level of reliability and empowering others to make choices on their own reliability. Commissioner Norris also spoke to the fix, find, track, and report filings noting the current backlog is not sustainable, it's a distraction and the Commissioner looks forward to working through the process.

Commissioner LaFleur commented that she finds the meetings very valuable in multiple areas but notably each meeting she gets to know more people and that is helpful in discussing the topics. Commissioner LaFleur referenced the Technical Conference to be held November 29 and 30 in Washington, D.C. Ms. LaFleur stated the afternoon of the 29th will focus on an update on how the industry has done on the priorities Mr. Cauley set out early in the year; will determine if there are new things that need to be placed on the list and that fix, find, track, and report will be on the list, as well as incorporating lessons learned. Commissioner LaFleur further advised that the 30th will focus on reliability issues and will not be a forum on EPA regulations. She concluded the Commission is looking forward to two very productive days.

President's Report

Mr. Cauley's report addressed the four pillars that NERC strives to build upon for continued success as the electric reliability organization. Those foundations are:

- **Reliability** – addressing real problems to improve the reliability of the grid.
- **Accountability** – being accountable to customers, the industry and government for the performance of the grid.
- **Learning** – enabling the industry to learn from experience to improve future reliability performance.
- **Risk-based model** – focusing actions and programs on issues most important to grid reliability.

Mr. Cauley further commented that the compliance enforcement initiative is a logical step for an enforcement agency that is learning; allows NERC to be focused on reliability, risk, and accountability for what matters. Mr. Cauley expressed his appreciation to the industry for the broad support and looks forward to the continued support as there is still a good amount of work ahead.

Mr. Cauley spoke to the budget approval congratulating NERC and Regional Staff on their hard work and success of a clean budget. Mr. Cauley also provided an update on recent activities within the areas of standards, compliance operations, and event analysis.

Reliability Standards

Herb Schrayshuen, vice president of standards and training, gave a presentation on the Reliability Standards Program (**Exhibit E**) and presented the following items for board action.

Reliability Standards: Project 2007-07 – Vegetation Management—FAC-003-2

On motion of Tom Berry, the board approved the following resolutions:

RESOLVED, that the board approves the FAC-003-2 – Vegetation Management Reliability Standard (**Exhibit F**);

FURTHER RESOLVED, that the board approves the associated implementation plan, which provides the following **(Exhibit G)**:

- (a) FAC-003-2 is proposed to be effective on the first day of the first calendar quarter one year after the date of regulatory approval in order to provide entities time to make revisions to their existing transmission vegetation management programs to comply with the new requirements.
- (b) Retire the following at midnight of the day immediately prior to the effective date of FAC-003-2:
 - FAC-003-1 Transmission vegetation Management Program (FAC-003-1)
 - Definition of Right-of-Way
 - Definition of Vegetation Inspection

FURTHER RESOLVED, that the board approves the following new definitions included in the FAC-003-2 Reliability Standard, to become effective on the first day of the first calendar quarter one year after the date of regulatory approval:

- Right-of-Way
- Vegetation Inspection
- Minimum Vegetation Clearance Distance (MCVD)

FURTHER RESOLVED, that the board approves the Violation Risk Factors proposed by the standard drafting team and the Violation Severity Levels proposed by the standard drafting team for Requirements R3 through R7 and the Violation Severity Levels proposed by the NERC staff for Requirements R1 and R2 of the proposed FAC-003-2 Reliability Standard **(Exhibit H)**;

FURTHER RESOLVED, that NERC Staff shall make the appropriate filings with ERO governmental authorities.

Reliability Standards: Reliability Standards Development Plan 2012-2014

On motion of Ken Peterson, the board approved the following resolutions:

RESOLVED, that the board approves the Reliability Standards Development Plan 2012-2014;

FURTHER RESOLVED, that NERC Staff shall file the updated plan with ERO governmental authorities for informational purposes.

Reliability Standards: MOD-025-RFC-1: Reactive Power Capability

On motion of Ken Peterson, the board approved the following resolutions:

RESOLVED, that the board approves the MOD-025-1-RFC-1 – Reactive Power Capability Regional Reliability Standard **(Exhibit I)**;

FURTHER RESOLVED, that the board approves the associated implementation plan, which provides the following **(Exhibit J)**:

- (a) Upon regulatory approval, the standard will be mandatory and enforceable (with monetary penalties for non-compliance) to all applicable NERC registered entities within the ReliabilityFirst footprint;

FURTHER RESOLVED, that the board approves the Violation Risk Factors and the Violation Severity Levels for the proposed MOD-025-1-RFC-1 – Reactive Power Capability Reliability Standard **(Exhibit K)**;

FURTHER RESOLVED, that NERC Staff shall make the appropriate filings with ERO governmental authorities.

Reliability Standards: IRO-006-TRE-1: IRO and SOL Mitigation in the ERCOT Interconnection

On motion of Paul Barber, the board approved the following resolutions:

RESOLVED, that the board approves the IRO-006-TRE-1: IRO and SOL Mitigation in the ERCOT Interconnection Regional Reliability Standard **(Exhibit L)**;

FURTHER RESOLVED, that the board approves the associated implementation plan, which provides the following **(Exhibit M)**:

- (a) An effective date of the first day of the first calendar quarter after applicable regulatory approval.

FURTHER RESOLVED, that the board approves the Violation Risk Factors and the Violation Severity Levels for the proposed IRO-006-TRE-1: IRO and SOL Mitigation in the ERCOT Interconnection Regional Reliability Standard **(Exhibit N)**;

FURTHER RESOLVED, that NERC Staff shall make the appropriate filings with ERO governmental authorities.

Reliability Standards: PRC-006-SERC-1: Automatic Underfrequency Load Shedding (UFLS) Requirements

On motion of Paul Barber, the board approved the following resolutions:

RESOLVED, that the board approves the PRC-006-SERC-01 – Automatic Underfrequency Load Shedding (UFLS) Requirements Regional Reliability Standard **(Exhibit O)**;

FURTHER RESOLVED, that the board approves the associated implementation plan, which provides the following **(Exhibit P)**:

- (b) The implementation is staged over a 30-month window to allow entities to respond to any changes in UFLS settings due to this standard. In addition, the implementation date of Requirement R1 is dependent on FERC adoption of the continent-wide standard PRC-006-1.

FURTHER RESOLVED, that the board approves the Violation Risk Factors and the Violation Severity Levels for the proposed PRC-006-SERC-01 – Automatic Underfrequency Load Shedding (UFLS) Requirements Regional Reliability Standard **(Exhibit Q)**;

FURTHER RESOLVED, that NERC Staff shall make the appropriate filings with ERO governmental authorities.

NERC Rules of Procedure Nonsubstantive Capitalization and Definition Changes

Rebecca Michael, associate general counsel, presented for approval the nonsubstantive capitalization and definition changes to NERC's Rules of Procedure.

On motion of Bruce Scherr , the board approved the following resolutions:

RESOLVED, that the board approves the proposed revisions to the NERC Rules of Procedure as set out in Agenda Item 7 to the board's November 3, 2011 agenda **(Exhibit R)**;

FURTHER RESOLVED, that the board approves the proposed changes to all existing Appendices to the Rules of Procedure (Appendices 3A, 3B, 3C, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 6, and 8) **(Exhibit S)**;

FURTHER RESOLVED, that the board approves the proposed new Appendix 2, Definitions of Terms Used in the Rules of Procedure **(Exhibit T)**;

FURTHER RESOLVED, that NERC Staff shall make the appropriate filings with ERO governmental authorities.

At the conclusion of this presentation, Chair Anderson invited discussion regarding the recommended substantive changes to the Rules of Procedure following the discussion occurring the previous day at the Member Representatives Committee meeting. No trustee responded.

Reinstatement of NERC Rules of Procedure Section 402.1.3.2

Ms. Michael reviewed and requested board approval for the reinstatement of NERC Rules of Procedure Section 402.1.3.2

On motion of Dave Goulding, the board approved the following resolution:

WHEREAS, the October 7, 2011 order of the Federal Energy Regulatory Commission ("FERC") denied NERC's request to remove Section 402.1.3.2 from NERC's Rules of Procedure and directed NERC to reinstate Section 402.1.3.2; and

WHEREAS, in the October 7, 2011 order FERC indicated that it did not expect Regional Entity audit validation [to] require significant participation by registered entities so as to make the process unduly burdensome to such entities, and further stated that the audit validation's purpose is to test the audit techniques and robustness of the Regional Entity's audit program—it is not to review the compliance of a registered entity;

RESOLVED, that the board approves the reinstatement of Section 402.1.3.2 into the NERC Rules of Procedure, as directed in the October 7, 2011, FERC order (**Exhibit U**);

FURTHER RESOLVED, that NERC staff shall make the appropriate filings with ERO governmental authorities.

Amendments to WECC Bylaws, and Reliability Standards Development Procedures

David Cook, general counsel, reviewed and presented for approval the requested amendments to the WECC Bylaws, and Reliability Standards Development Procedures.

On motion of Ken Peterson, the board approved the following resolutions:

WHEREAS, the WECC Board of Directors and Membership, acting in accordance with the WECC Bylaws at meetings of the Board and Membership in August 2008 and March and June 2011, approved certain amendments to the WECC Bylaws and standards development procedure, as set forth in Agenda Item 9 of the NERC Board of Trustees agenda for its November 3, 2011 meeting (the "Amendments"); and

WHEREAS, on October 3, 2011, WECC requested that NERC approve the Amendments and file them with the Federal Energy Regulatory Commission for approval; and

WHEREAS, the NERC Board of Trustees finds that WECC followed appropriate procedures in adopting the Amendments and that the Amendments are consistent with WECC's obligations and responsibilities under the delegation agreement between NERC and WECC and otherwise meet the requirements set forth in 18 C.F.R. §39.10 of the Commission's regulations; and

WHEREAS, the Amendments will constitute amendments to the Amended and Restated Delegation Agreement between NERC and WECC, consisting of amendments to Exhibit B – the WECC Bylaws, and to Exhibit C – the WECC Reliability Standards Development Procedures,

RESOLVED, that the board approves the proposed amendments to the Amended and Restated Delegation Agreement between NERC and WECC;

FURTHER RESOLVED, that NERC staff shall make the appropriate filings with ERO governmental authorities.

Spare Equipment Database

Mark Lauby, Vice President and Director of Reliability Assessment and Performance Analysis, gave a presentation on the Spare Equipment Database (**Exhibit V**) and requested acceptance by the board.

On motion of Gerry Cauley, the board approved the following resolutions:

RESOLVED, that the board accepts the Special Report: Spare Equipment Database System;

FURTHER RESOLVED, that the board endorses the implementation of the Spare Equipment Database program in the first quarter of 2012.

Status of Action Items from NERC Three-Year ERO Performance Assessment

Dave Nevius, senior vice president, presented an update (**Exhibit W**) on some of the more significant developments in each NERC program area since the March 16, 2011 report to the board, "Progress in Implementing Specific NERC Actions from the Three-Year ERO Performance Assessment." NERC plans to produce a final, year-end report for presentation to the board at its February 2012 meeting.

Presentation by Tom Bowe, PJM Interconnection

Tom Bowe, PJM Interconnection, gave an in-depth presentation on Shale Gas (**Exhibit X**). Mr. Bowe defined shale as large, natural gas rich, shale formation spanning tens of millions of acres with natural gas and hydrocarbons trapped inside the solid shale. Mr. Bowe stated that PJM and NYISO sit atop the largest shale gas discovery. Mr. Bowe believes shale gas is a major energy game changer noting annual US natural gas usage is ~20 TCF; shale could contain as much as 30 years of natural gas supply. Mr. Bowe continued his presentation explaining the drill method for shale gas. In conclusion, Mr. Bowe stated there are environmental risks that exist to shale gas drilling, but those risks appear manageable; everything is pointing to more gas-fired electric generation; and shale gas will impact PJM and electricity markets in the years to come.

Standing Committee Reports**Compliance and Certification Committee**

Chair Clay Smith provided the Compliance and Certification Committee (CCC) report highlighting key activities. Mr. Smith noted that the CCC NERC Stakeholder Effectiveness and Perception Survey Report and the CCC 2012 Work Plan are due to be presented to the Board of Trustees at their February 2012 meeting. Mr. Smith also stated the CCC is working with NERC staff to resolve differences between the CAN and Standard Interpretation Processes.

Critical Infrastructure Protection Committee

Barry Lawson, chair, highlighted items from the committee's written report to the board (**Exhibit Y**).

Member Representatives Committee

Bill Gallagher, chair reported to the board a summary of the matters presented during the Member Representatives Committee.

Operating Committee

Tom Bowe, chair, highlighted items from the committee's written report to the board (**Exhibit Z**). Mr. Bowe stated the committee spent several hours brainstorming and discussing its future strategic plan and the process for its development. The Operating Committee's intent is to have a draft of the strategic plan ready for committee approval at its December 2011 meeting, with Board of Trustees approval in first quarter 2012.

Personnel Certification Governance Committee

Jake Burger, chair, presented the report for the Personnel Certification Governance Committee (**Exhibit AA**). Mr. Burger stated the Personnel Certification Governance Committee has updated Section 600 of the Rules of Procedure, noting a separate program manual and user's guide provides detailed instructions for requesting and maintaining certification, along with other program administrative information. Mr. Burger further highlighted through September 30, 2011, a total of 603 exams were taken with a passing rate of 68.8 percent.

Planning Committee

Jeff Mitchell, chair, highlighted the actions called for in the approved Planning Committee Strategic Plan: Next Steps and Future Work Plan.¹ Mr. Mitchell stated the plan disbands the following groups and he offered his thanks and appreciation:

- Resource Issues Subcommittee
- Data Coordination Working Group
- Load Forecasting Working Group
- Loss-of-Load Expectation Working Group
- Reliability Fundamentals Working Group

Mr. Burger also noted that the Planning Committee approved an Alert process, which calls for more coordination between Alert development and provision of expertise by the Planning Committee.

Standards Committee

Allen Mosher, chair, referred to the highlighted items from the committee's written report to the board (**Exhibit AB**).

Electricity Sub-Sector Coordinating Council

Gerry Cauley, chair, referred to the written report to the board (**Exhibit AC**) and stated he had no further comments.

Board Committee Reports

Corporate Governance and Human Resources

Chair Janice Case provided a summary report of the Corporate Governance and Human Resources Committee (CGHRC) open meeting held on October 26, 2011. Chair Case reviewed and requested board approval for the Adoption of Section 457(b) Plan.

On motion of Chair Case, the board approved the following resolutions:

WHEREAS, the Corporate Governance and Human Resources Committee has recommended that the North American Electric Reliability Corporation (the “Company”) establish a deferred compensation plan under section 457(b) of the Internal Revenue Code of 1986, as amended;

WHEREAS, NERC management, working with Employee Fiduciary Corporation, has developed a proposed North American Electric Reliability Corporation 457(b) Deferred Compensation Plan (the “Plan”)(Attachment 1 to this resolution);

WHEREAS, the Board of Trustees finds that it is appropriate to establish the Plan;

THEREFORE, the Board of Trustees adopts the following resolutions:

RESOLVED, that the Plan be adopted in the form attached hereto, which Plan is hereby adopted and approved;

FURTHER RESOLVED, that the appropriate officers of the Company be, and they hereby are, authorized and directed to execute the Plan on behalf of the Company;

FURTHER RESOLVED, that the officers of the Company be, and they hereby are, authorized and directed to take any and all actions and execute and deliver such documents as they may deem necessary, appropriate or convenient to effect the foregoing resolutions including, without limitation, causing to be prepared and filed such reports, documents or other information as may be required under applicable law.

Ms. Case also reported that NERC has hired TalentQuest of Atlanta to complete the Board, Board Committees self-assessments, as well as the MRC Effectiveness Survey of the Board of Trustees. All items will be automated this year and the Member Representatives Committee will once again be asked to participate in the completion of the Effectiveness Survey. All applicable participants will receive and email mid-December containing the necessary information for completion.

Compliance Committee

Chair Bruce Scherr provided a brief summary of the Compliance Open meeting from the previous day highlighting that both NERC and Regional Entity staff have begun the compliance enforcement initiative.

Finance and Audit Committee

Chair Fred Gorbet stated he had two items for consideration, the Third Quarter Statement of Activities and Resolution Establishing a Risk Management and Internal Controls Subcommittee.

On motion of Fred Gorbet, the board accepted the NERC Third Quarter 2011 Statement of Activities.

Resolution Establishing a Risk Management and Internal Controls Subcommittee

On motion of Fred Gorbet, the board approved the following resolutions:

WHEREAS, the Electric Reliability Organization is a maturing and complex enterprise, with operations involving both NERC and eight regional reliability organizations, with a combined annual operating budget in excess of \$180 million dollars; and

WHEREAS, in any enterprise of this size, good governance demands that there be in place a robust Enterprise-wide Risk Management (“ERM”) framework, to provide assurance on the identification, measurement and mitigation of risks, and the effectiveness of internal controls: and

WHEREAS, the development and oversight of an enterprise-wide risk management framework is clearly the ultimate responsibility of the Board of Trustees (“Board”); and

WHEREAS, the Finance and Audit Committee prepared background materials and recommends Board approval of the establishment of a subcommittee of the Finance and Audit Committee (FAC) to act as the Risk Management and Internal Controls Subcommittee, a copy of which is attached hereto (RMICS Background Materials); and

WHEREAS, the chairs of the Compliance Certification Committee and the Regional Entity Management Group have also expressed support for the creation of a Risk Management and Internal Controls Subcommittee,

RESOLVED, that the Board hereby establishes a Risk Management and Internal Controls Subcommittee (RMICS) as a subcommittee of the FAC. The RMICS shall report to the Board through the Finance and Audit Committee and shall be chaired by the Chair of FAC and consist of both Trustee members and non-Trustee members. The Trustee members shall include all of the members of the FAC. The non-Trustee members shall include the Chair of the Compliance Certification Committee and the Chair of the Regional Entity Management Group. The President and CEO and Chief Financial and Administrative Officer shall also be invited to attend meetings of the RMISC, together with such other attendees as the Chair of the RMICS may deem advisable;

FURTHER RESOLVED, that the RMICS is hereby directed to develop a mandate for review and approval by the Corporate Governance and Human Resources Committee and the Board. The RMICS mandate shall include the scope of activities set forth in the RMICS Background Materials;

FURTHER RESOLVED, that the RMICS, the Executive Committee of the CCC and NERC management shall develop a plan to coordinate activities between the two committees.

Standards Oversight and Technology Committee

Chair Peterson provided a brief review of the actions of the committee the day prior.

Closing

Chair Anderson thanked the industry for their attendance and their continued support. He reconfirmed that the policy input is beneficial to the board and requests that the industry members continue to submit their comments.

Adjournment

There being no further business, Chair Anderson terminated the meeting at 11:15 a.m.

Submitted by,



David N. Cook
Corporate Secretary

Critical Infrastructure Protection Committee Membership

Action

Approve membership of the Critical Infrastructure Protection Committee (CIPC) membership and CIPC Executive Committee Membership.

Background

Due to recent elections of CIPC Executive Committee members, as well as replacement designations by the Regions of regional representation to the CIPC itself, the Board is asked to approve the current slate of members for both the CIPC and the CIPC Executive Committee.

CIPC Members

The CIPC charter states:

“Selection:

- a. There will be a minimum total of 30 voting members. The maximum will be 32, as described below.
- b. Twenty-four selected from the eight NERC Regional Entities each of which will appoint three members, one each with expertise in three technical areas - physical security, cyber security, and operations - as well as policy, as defined below:

Physical Security – primarily focused on electricity sector facilities (including, but not limited to, generation, dams, transmission, substations, critical distribution facilities, and headquarters buildings). Candidates should have a background in Corporate or Physical Security at an asset owner utility, ISO or RTO.

Cyber Security – primarily focused on bulk power control systems (including, but not limited to, SCADA, EMS, DCS, and also systems such as OASIS), but with consideration also to systems required for business continuity of control centers. Candidates should have a background in control systems, infrastructure or operations security.

Operations – primarily focused on system operations at the balancing authority (control area) and reliability coordinator levels. Candidates should have a background in SCADA, EMS, substation or generating plant control equipment operation and administration.

Policy – defined as having had regulatory review responsibility, strategic planning, or legislative development, review or advocacy experience positions in a NERC registered entity or an industry trade association. (The Executive Committee requires this expertise to establish strategy and policy direction for the Committee.)

- c. A minimum of two (more if required as stated later in this paragraph) selected by CEA. The Committee shall contain the number of Canadian voting representatives equal to the percentage of the Net Energy for Load (NEL) of Canada to the total NEL of the United States and Canada, times the total number of voting members on the Committee, rounded up to the next whole number. The Regional Entity representatives can fulfill this requirement. If the Canadian Regional Entity representatives are not in sufficient numbers, then NERC will ask the CEA to select sufficient Canadian representatives to meet the requirement.
- d. Two selected by APPA.
- e. Two selected by NRECA. “

Accordingly, the CIPC requests that the NERC Board of Trustees approve the following membership of the CIPC. These members have been nominated by their respective “nominating organizations”:

- Charles Abell, Chair, Ameren, SERC Cyber representative
- Jim Brenton, Vice-Chair, ERCOT Cyber Representative
- Nathan Mitchell, Vice-Chair, APPA Representative

Representing	Name	Affiliation	Discipline	Change
ERCOT	Jim Brenton	ERCOT	Cyber	
ERCOT	David Grubbs	City of Garland	Operations	
ERCOT	Scott Rosenberger	Luminent	Physical	
FRCC	Paul McClay	TECO	Cyber	
FRCC	Rich Powell	JEA	Physical	
FRCC	Darren Myers	Progress	Operations	
MRO	Marc Child	Great River	Cyber	
MRO	Paul Crist	LES	Physical	
MRO	Rick Liljegren	MN Power	Operations	
NPCC	Mike Puscas	NU	Operations	
NPCC	John Lim	ConEd	Cyber	
NPCC	Benoit Tardif	HQ	Physical	
RFC	Larry Bugh	RFC	Cyber	
RFC	Kent Kujala	Detroit	Operations	
RFC	Jeff Fuller	DPL	Physical	
SERC	Chuck Abell	Ameren	Operations	
SERC	Cark Eng	Dominion	Cyber	
SERC	Tommy Clark	SMEPA	Physical	*
SPP	John Breckenridge	KCPL	Physical	
SPP	Allen Klassen	Westar	Operations	
SPP	Robert McClanahan	AECC	Cyber	
WECC	Scott Bordenkircher	APS	Physical	
WECC	Robert Matthews	PGE	Cyber	
WECC	Jamie Sample	PGE	Operations	
APPA	David Godfrey	TMPA		
APPA	Nathan Mitchell	APPA		

CEA	Chris McColm	Manitoba
CEA	Ross Johnson	Capital Power
NRECA	Robert Richhart	Hooser
NRECA	Barry Lawson	NRECA

CIPC Executive Committee

The CIPC charter states:

“1. Members.

- f. The CIPC shall have an Executive Committee (EC) with the following membership.
 - i. Chair
 - ii. Two Vice-Chairs
 - iii. Secretary (non-voting, NERC staff member)
 - iv. Four Committee members elected by the Committee, who are subject-matter experts (SME) in one of the following areas: Physical Security, Cyber Security, Operations and Policy.
 - (a) The SME members are selected at the December meeting in odd-numbered years, using the selection process defined in the Officers section above.
 - (b) The terms of the SME member positions are for two years and shall begin on January 1st following their election and continue through December 31st of the second year following.

2. Non-voting Members.

- a. In addition, the EC includes, as non-voting participants, the immediate past CIPC Chair who may serve one year, and named representatives from APPA, CEA, EEI, EPSA, IRC and NRECA. Other recognized and well-established trade associations from the electricity sector that are involved in critical infrastructure protection issues will be considered for nonvoting membership if they are not all ready represented. Additional non-voting members must be approved by the voting members of the EC.”

Accordingly, the CIPC requests that the NERC Board of Trustees approve the following membership of the CIPC Executive Committee. These members have been elected by CIPC:

- Charles Abell, Chair, Ameren, SERC Cyber representative
- Jim Brenton, Vice-Chair, ERCOT Cyber and ISO/RTO Council representative
- Nathan Mitchell, Vice-Chair, APPA representative
- Member-at-Large: Marc Child, MRO representative
- Member-at-Large: Carl Eng, SERC representative
- Member-at-Large: David Grubbs, ERCOT representative
- Member-at-Large: Ross Johnson, CEA representative
- Ex-Officio: David Batz, EEI
- Ex-Officio: Jack Cashin: EPSA

- Ex-Officio: Bob Canada, NERC, Secretary
- Ex-Officio: Matt Blizard, NERC Director CID
- Ex-Officio: Brian Harrell, NERC
- Ex-Officio: Tim Roxey, NERC
- Ex-Officio: Scott Mix, NERC

Compliance and Certification Committee Membership

Action

Approve the nomination to the Compliance and Certification Committee (CCC) of Mr. Daniel Herring of Detroit Edison Company as the representative for the Transmission Dependent Utility sector. Approve the re-appointments of Ms. Patricia Metro of National Rural Electric Cooperative Association as the representative for the Transmission Dependent Utility sector, Mr. Richard (Keith) Comeaux of NRG Energy, Inc. as the representative for the Electricity Marketer sector, and Mr. Matt Goldberg of ISO New England, Inc. as the representative for the ISO/RTO sector.

Summary and Background

The CCC, a stakeholder Committee of NERC comprising 26 members representing various industry sectors, serves and reports directly to the NERC Board of Trustees. The CCC is responsible for engaging with, supporting, and advising the NERC Board and NERC Compliance staff regarding all facets of the NERC Compliance Monitoring and Enforcement Program, the NERC Organization Registration Program, and the NERC Organization Certification Program.

Continent-wide Standards and Interpretations

Action

Approve or discuss reliability standards, interpretations, and procedures as follows:

- a. Project 2010-07 Generator Requirements at the Transmission Interface
- b. Project 2008-10 Interpretation of CIP-006 for Progress Energy
- c. Project 2009-22 Interpretation of COM-002-2 for the IRC
- d. Project 2011-INT-01 Revision of MOD-028-1 to address FPL Request for Interpretation (Rapid Revision Pilot)

7a. Project 2010-07 Generator Requirements at the Transmission Interface

Action

Approve the following standards documents and direct staff to file with applicable regulatory authorities:

- **Reliability Standard FAC-001-1 – Facility Connection Requirements** effective consistent with the Implementation Plan for FAC-001-1
[\[FAC-001-1 – clean\]](#) [\[FAC-001-1 redline to last approval\]](#)
- **Reliability Standard PRC-004-2.1a – Analysis and Mitigation of Transmission and Generation Protection System Misoperations** effective consistent with the Implementation Plan for PRC-004-2.1a
[\[PRC-004-2.1a – clean\]](#) [\[PRC-004-2.1a redline to last approval\]](#)
- **Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) for FAC-001-1**
[\[VRFs and VSLs\]](#)
- **Implementation Plan for FAC-001-1 – Facility Connection Requirements:**
[\[Implementation Plan\]](#)

There are no changes to the requirements for Transmission Owners and it is therefore expected that Transmission Owners will maintain their current state of compliance. Reliability standard FAC-001-1 becomes effective for Transmission Owners either upon regulatory approval or upon Board of Trustees adoption, depending on the jurisdiction.

Generator Owners are given one year to comply with FAC-001-1, as detailed in the implementation plan. One year is adequate for allowing Generator Owners with one or more in-place executed interconnection agreements to become compliant. Any Generator Owner that executes an agreement after the standard becomes enforceable will have had one year of awareness of the possible applicability of FAC-001-1, along with 45 days after the execution of the agreement, to document and publish its facility connection requirements.

- **Implementation Plan for PRC-004-2.1a – Analysis and Mitigation of Transmission and Generation Protection System Misoperations:**
[\[Implementation Plan\]](#)

The proposed change to Requirement R2 is a clarifying (errata) change that makes clear that generator interconnection facilities are also part of Generator Owners' responsibility in the context of this standard. Because the change is merely a clarifying change, no additional time for compliance is needed and all requirements become effective upon approval. In those jurisdictions where no regulatory approval is required, all requirements become effective upon Board of Trustees' adoption.

Retirements

Retire the following standard at midnight of the day immediately prior to the effective date of FAC-001-1:

- FAC-001-0 – Facility Connection Requirements

Retire the following standard midnight of the day immediately prior to the effective date of PRC-004-2.1a:

- PRC-004-2a – Analysis and Mitigation of Transmission and Generation Protection System Misoperations

Background

Building on the work of the Ad Hoc Group for Generator Requirements at the Transmission Interface (Ad Hoc Group), these standards include modifications that help ensure that responsibility for generator interconnection facilities is appropriately assigned in NERC's Reliability Standards. The changes proposed by the drafting team for Project 2010-07 offer a focused approach whereby sole-use interconnection facilities (at or above 100 kV) that are owned and operated by generating entities will be included in a small set of standards and requirements previously only applicable to Transmission Owners. These generating entities (Generator Owners and Generator Operators) do not own or operate facilities that are part of the interconnected system; rather, they own and operate sole-use facilities that are connected to the boundary of the interconnected system, and as such, may have a limited role in providing reliability compared to those entities that operate in a networked fashion beyond the point of interconnection.

In the past, certain Generator Owners and Generator Operators with generator interconnection facilities have been registered as Transmission Owners and Transmission Operators. However, such action may not be necessary to provide an appropriate level of reliability for the bulk electric system. Generator Owners and Generator Operators do not need, and in some cases may be prohibited from having, a wide-area view and responsibility for the integrated transmission system. Requiring Generator Owners and Generator Operators to have such responsibilities would require significant training, require substantially more data, and increase modeling responsibilities. These responsibilities would also detract from the entities' primary functions: respectively, to perform the duties associated with owning a generation asset, and to operate their generation equipment (including interconnection Facilities) in a reliable manner.

With the above in mind, the drafting team for Project 2010-07 proposed the following standard modifications:

- FAC-001-1 now requires a Generator Owner to document and publish facility connection requirements if and when it executes an agreement to evaluate the reliability impact of interconnecting a third party facility to its existing generation interconnection facility.

It is still rare for a third party facility to interconnect to an existing generator interconnection facility, but the scenario has occurred in the past (*see Alta Wind I LLC, et al.*, 134 FERC ¶ 61,109 at P 19 (2011) and *Sky River, LLC*, 134 FERC ¶ 61,064 at P 13 (2011)). Once that interconnection occurs, a Generator Owner may be registered for other functions (such as Transmission Owner, Transmission Planner, and/or Transmission Service Provider), but until such additional registration occurs, there is no

requirement for the Generator Owner to document and publish facility connection requirements.

- In PRC-004-2.1a, the phrasing of R2 (“The Generator Owner shall analyze its generator Protection System Misoperations...”) could lead to some confusion about whether an interconnection facility is included. The phrase “...and generator interconnection facility” was added as shown in the redlined version of the standard. Because there is no change in applicability, this change is considered a minor change employed only to add clarity.

Standard Development Process

FAC-001-1 progressed through the normal standards development process, which included three postings for stakeholder comment (one informal and two formal) over a nine-month period, an initial ballot in November 2011, and a recirculation ballot in December 2011. The changes made between comment periods improved the clarity of the applicability changes and PRC-004-2.1a progressed through the normal standards development process, which included one formal comment period that began in October 2011, an initial ballot in November 2011, and a recirculation ballot in December 2011. The changes made between the ballots ensured that the phrase “...and generator interconnection facility” was included in all necessary sections of the standard.

The ballot for Project 2010-07 closed on December 23, 2011 with the following results:

- FAC-001-1: quorum of 88.48 percent, approval of 90.10 percent
- PRC-004-2.1a: quorum of 86.65 percent, approval of 96.43 percent
- FAC-003-3 – Transmission Vegetation Management, which adds Generator Owners to the applicability section of FAC-003-2,^[1] was also modified as a part of Project 2010-07. This standard was balloted along with FAC-001-1 and PRC-004-2.1a and was approved by stakeholders (with an 87.17 percent quorum and an 85.38 percent approval).

However, a Level 1 Appeal of FAC-003-3/FAC-003-X is expected to be submitted in the immediate future. Accordingly, the request for Board action relative to FAC-003-3 is being held until the appeal process can be completed.

Unresolved Minority Issues

There were a few minority issues raised that were not resolved as identified below:

- **Issue:** Some expressed concern that it is impossible for Generator Owners to receive an interconnection request, and thus didn’t support the changes proposed for FAC-001-1.

Response: If a particular Generator Owner cannot receive an interconnection request (based, for instance, on regional restrictions), then FAC-001-1 would never apply to that Generator Owner. However, in the past (for instance, *Alta Wind I LLC, et al.*, 134 FERC ¶ 61,109 at P 19 (2011) and *Sky River, LLC*, 134 FERC ¶ 61,064 at P 13 (2011), Generator Owners have received or have been directed to execute interconnection requests for their facilities. Thus, it is important to clarify the responsibilities related to such a request in NERC’s Reliability Standards.

^[1] FAC-003-2 was developed as part of Project 2007-07 and approved by the Board of Trustees on November 3, 2011.

- **Issue:** Some indicated that R1 and R4 of FAC-001-1 require modification.

Response: FAC-001-1 R1 and R4 and their accompanying VSLs deal exclusively with the Transmission Operator and are thus outside the scope of Project 2010-07, which deals exclusively with the responsibilities of Generator Owners and Generator Operators with generator interconnection facilities.

- **Issue:** Some suggested that in FAC-001-1, the reference to “Generator Owner’s existing Facility” should be changed to “Generator Owner’s existing Transmission Facility.”

Response: In some areas, Generator Owners cannot, by statute, own transmission, so it would be inappropriate to refer to a generator’s facility as “Transmission.”

- **Issue:** Some maintained that FAC-003-3 should not include an exception for generator interconnection facilities of a certain length, because there are no exceptions made for Transmission Owners of different lengths.

Response: There is a very low risk from vegetation within the line of sight on a generator interconnection facility, and thus the formal steps in FAC-003-3 are not necessary to ensure reliability of these lines. In many cases, generation facilities are staffed and the overhead portion is within line of sight or over a paved surface. Requiring Generator Owners with facilities like these to comply with the vegetation management standard would impose a significant compliance and documentation burden with little or no reliability benefit.

- **Issue:** Some pointed out that PRC-005-1a requires the same clarifying change made in PRC-004-2.1a.

Response: Requirements R1 and R2 of PRC-005-1a Transmission and Generation Protection System Maintenance and Testing do require the same explicit reference to a generator interconnection facility that was added in PRC-004-2.1a R2. PRC-005-1a will be modified accordingly and posted for stakeholder comment separate from this package of standards.

- **Issue:** Other standards (such as EOP-005-1, FAC-014-2, PER-002-0, PER-003-1, TOP-001-1, TOP-004-2, and TOP-006-1) require modification to close the reliability gap with respect to the generator interconnection facility.

Response: The full suite of NERC Reliability Standards was reviewed as part of Project 2010-07. In the drafting team’s views, there are clear and technical reliability-based reasons that support not adding Generator Owner and Generator Operator requirements to these standards. In some cases, modifying requirements in these standards would lead to redundancy with requirements elsewhere, and in other cases the standards in question require a wide-area view that Generator Owners and Generator Operators do not have or are expressly prohibited from having. A more detailed explanation of why Project 2010-07 has focused its work on FAC-001-1, FAC-003-3, and PRC-004-2.1 (and eventually PRC-005-1a) is available on the project page [Technical Justification Resource Document].

Proposed VRFs and VSLs

FAC-001-0, as a Version 0 standard, initially did not have VRFs or VSLs assigned to it. The VRFs for FAC-001-1 were transferred into the standard from NERC's [VRF Matrix](#) – which includes VRFs that have already been approved by FERC – to bring the format of the standard up to date. The VSLs for FAC-001-1 were transferred from the VSLs filed by NERC staff on March 21, 2011 (in [Supplemental Information to the NERC Compliance Filing in Response to the Order on Violation Severity Levels Proposed by the ERO](#)). For existing Requirements R1 and R4 (applicable to Transmission Owners only), no substantive changes to VRFs or VSLs were made, although a typographical error in the VSLs for R1 was corrected. For new Requirement R2 (applicable to Generator Owners only), the Project 2010-07 standard drafting team applied the comparable VRF from R1 and developed a set of VSLs according to NERC and FERC guidelines. For modified Requirement R3 (applicable to Transmission Owners and Generator Owners), no substantive changes to the VRFs or VSLs were made, although a typographical error in the VSLs for R3 was corrected.

The proposed change in PRC-004-2.1a Requirement R2 is a clarifying (errata) change that makes clear that generator interconnection facilities are also part of Generator Owners' responsibility in the context of this standard. Thus, no changes were proposed for the VRFs or VSLs for PRC-004-2.1a.

The non-binding poll of VRFs and VSLs for FAC-001-1 was conducted in January 2012. It achieved a quorum with 78 percent of those who registered to participate providing an opinion and 93 percent of those who provided an opinion indicating support for the VRFs and VSLs that were proposed. NERC standards staff has reviewed all proposed changes and additions to the VRFs and VSLs and recommends them for adoption.

A link to the project history and files is included here for reference:

http://www.nerc.com/filez/standards/Project2010-07_GOTO_Project.html

If trustees have questions or need additional information, they may contact Herb Schrayshuen at herb.schrayshuen@nerc.net.

7b. Project 2008-10 Interpretation of CIP-006 for Progress Energy

Action

Approve the interpretation of Requirement R1.1 of CIP-006-x¹ — Cyber Security — Physical Security of Critical Cyber Assets (CIP-006-x) and direct staff to file with applicable regulatory authorities.

- **Interpretation of CIP-006-x** The referenced clean and redlined standards below provide the interpretation being approved as an appendix in each of the following documents [\[CIP-006-3 – Clean\]](#)

Background

In April of 2008, Progress Energy requested a formal interpretation of CIP-006-1, Requirement R1.1, asking whether electronic security perimeter wiring external to a physical security perimeter must be protected within a six-wall boundary.

An initial draft interpretation was developed and posted for initial ballot from August 7–16, 2008. Stakeholders did not support the draft interpretation; the ballot achieved only a 22 percent approval.

A second draft interpretation was developed and posted for an initial ballot from September 30–October 12, 2009. Stakeholders supported the draft interpretation; however, work on the interpretation was delayed based on reprioritization of the total standards workload and then further delayed until the Standards Committee developed more formal processes for addressing interpretations in support of the Board’s November 2009 guidance.

In April 2011, the Standards Committee approved and issued the NERC Guidelines for Interpretation Drafting Teams and directed that work resume on the interpretation. Nominations were solicited for a dedicated critical infrastructure protection (CIP) interpretation drafting team. A CIP Interpretation Drafting Team was appointed and in July 2011, the team began working to address the outstanding CIP interpretations in the order of the date of the request, with Project 2008-10 being the first to be addressed by the team. Members of the team reviewed the comments received from the 2009 ballot along with the substantial record of FERC orders on CIP standards and interpretations issued since that ballot. The team determined the second draft interpretation did not conform to the NERC Guidelines for Interpretation Drafting Teams and developed a revised interpretation limited to the question asked: whether CIP-006-x, Requirement R1.1, applies to electronic security perimeter wiring external to a physical security perimeter.

The interpretation drafting team interpreted the requirement as follows:

CIP-006-1, Requirement R1.1 applies to “Cyber Assets,” and the first test in determining whether it applies to wiring is to determine whether wiring is a “Cyber Asset.”

The definition of “Cyber Asset” in the NERC Glossary of Terms Used in Reliability Standards includes “communication networks,” but it does not explicitly include wiring or

¹ The interpretation applies to versions 1, 2, 3, and 4 of the standard.

communication mediums in general. Since wiring is not included in the definition of “Cyber Asset,” Requirement R1.1 of CIP-006-1 does not apply to wiring.

This interpretation is limited to whether Requirement R1.1 applies to a particular circumstance (e.g., “wiring”), which makes it distinct from the interpretation in CIP-006-3c, Appendix 1. The interpretation in CIP-006-3c, Appendix 1, only applies when a completely enclosed (“six-wall”) border cannot be established for a “Cyber Asset” within an electronic security perimeter.

An updated draft of the interpretation was posted for comment on October 12, 2011, with a parallel successive ballot conducted from November 11–21, 2011. The ballot achieved a 95.99 percent approval, with a quorum of 83.53 percent. A recirculation ballot was conducted December 9–19, 2011, and the interpretation was approved by stakeholders, achieving a 96.04 percent approval with a quorum of 88.02 percent.

Summary

The interpretation drafting team determined the definition of “Cyber Asset” in the NERC Glossary of Terms Used in Reliability Standards includes “communication networks,” but the interpretation drafting team determined that it does not explicitly include wiring or communication mediums in general. The interpretation drafting team interpreted that wiring is not a “Cyber Asset,” and since Requirement R1.1 of CIP-006-1 applies only to “Cyber Assets,” the requirement does not apply to wiring.

A link to the project history and files is included here for reference:

http://www.nerc.com/filez/standards/Project2008-10_CIP-006_Interpretation_Progress.html

If trustees have questions or need additional information, they may contact Herb Schrayshuen at herb.schrayshuen@nerc.net

7c. Project 2009-22 Interpretation of COM-002-2 for the IRC

Action

Consider action on the interpretation of Requirement R2 of COM-002-2 — Communications and Coordination (COM-002-2).

- **Interpretation of COM-002-2** The referenced clean standard below provides the interpretation as an appendix:
[\[COM-002-2 – Clean\]](#)

Background

On October 1, 2009, a clarification was requested by the ISO-RTO Council of Requirement R2 of COM-002-2, specifically asking whether “directives” are limited to actions requested during actual and anticipated emergency operating conditions, or whether routine operating instructions are also considered “directives.”

The initiation of the project for developing the interpretation was delayed following discussion with the requester based on the anticipation that more clarity regarding the term, “directives” would be provided through standard development work in Project 2007-02 Operating Personnel Communications Protocols (Project 2007-02). When it became clear that the work in Project 2007-02 would require considerable industry debate, an interpretation drafting team was formed and prepared a draft interpretation, which was posted for a 30-day formal comment period that ended December 18, 2010. However, work on the interpretation was further delayed based on reprioritization of the total standards workload, and again as the Standards Committee developed more formal processes for addressing interpretations.

In April 2011, the Standards Committee approved and issued the NERC Guidelines for Interpretation Drafting Teams and directed that work resume on the interpretation. At that time, the standards staff and the Standards Committee planned to work simultaneously on both the interpretation and Project 2007-02, with the goal of comprehensively addressing three-part communication. However, On August 30, 2011 the Standards Review Committee of the ISO/RTO Council submitted a Level 1 Appeal for Inaction related to Project 2009-22 to the Vice President and Director of Standards. The Appeal requested that Project 2009-22 be given an “immediate/urgent” priority and be addressed within 30 days of receiving the Appeal, and that NERC provide a formal explanation of the delays associated with the project. To be responsive to the Appeal, the interpretation was moved forward separately from the effort to develop a more comprehensive requirement for three-part communication. The [Appeal](#), as well as NERC’s [Response](#), is posted on the NERC website.

A revised interpretation was posted for industry comment on October 10, 2011, with a parallel ballot conducted November 8–18, 2011:

COM-002-2 R2 does not specify the conditions under which a directive is issued, nor does it define directive. It only provides that the requirements be followed when a directive is issued to address a real-time emergency. Routine operating instructions during normal operations would not require the communications protocols for repeat backs as specified in R2.

The ballot achieved a 95.05 percent approval, with a quorum of 91.2 percent. A minority of stakeholders who provided comments disagreed with the drafting team's interpretation and expressed concerns that the interpretation complicates the transition from normal to emergency conditions, which increases the risk to reliability of the bulk electric system as well as the risk of compliance violations. Some commenters asserted that the interpretation improperly and unnecessarily restricts the reach of Requirement R2. Stakeholders who provided comments disagreeing with the interpretation stated that three-part communications required in Requirement R2 should be used for all directives (not just emergency-related directives).

A recirculation ballot was conducted December 14–23, 2011, and the interpretation was approved by stakeholders, achieving a 94.58 percent approval with a quorum of 92.00 percent. While the drafting team faithfully followed the Board's guidance to use a "standard of strict construction" in developing its interpretation, NERC staff is concerned that limiting the use of three-part communication to emergency-related directives will effectively increase compliance risk. These concerns were conveyed to the drafting team orally, in formal comments submitted in the same manner as other stakeholders, and finally in a letter submitted to the team during the formal comment period that ended November 18, 2011.

In his [letter of October 2009 Chair John Q. Anderson](#) requested that NERC staff alert the Trustees when a compliance risk has been increased. We do so here, and recommend that the Board consider its available actions.

Summary

The interpretation drafting team concluded that Requirement R2 of COM-002-2 does not specify the conditions under which a directive is issued, and that the requirements only apply when a directive is issued to address a real-time emergency. Accordingly, the interpretation drafting team answered that routine operating instructions during normal operations do not require the communications protocols for repeat backs specified in R2.

A link to the project history and files is included here for reference:

http://www.nerc.com/filez/standards/Project2009-22_RFI_COM-002-2_R2_IRC.html

If trustees have questions or need additional information, they may contact Herb Schrayshuen at herb.schrayshuen@nerc.net.

7d. Project 2011-INT-01-Revision of MOD-028-1 to address FPL Request for Interpretation (Rapid Revision Pilot)

Action

Approve the following standards documents and direct staff to file with applicable regulatory authorities:

- **Reliability Standard MOD-028-2 – Area Interchange Methodology effective consistent** with the Implementation Plan for MOD-028-2
[\[MOD-028-2-clean\]](#) [\[MOD-028-2-redline to last approval\]](#)
- **Implementation Plan for MOD-028-2:**
[\[Implementation Plan\]](#)

The modifications do not change the scope or intent of the previously approved standard, therefore the implementation plan proposes that the new standard become effective on the first day of the first calendar quarter after applicable regulatory approval or where no regulatory approval is required, on the first day of the first calendar quarter after Board approval.

Retirements

Retire the following standard midnight of the day immediately prior to the effective date of MOD-028-2

- MOD-028-1 – Area Interchange Methodology

Background

In May 2011, Florida Power & Light (FPL) requested an interpretation of MOD-028-1, Requirement R3.1. The request asks for clarification of the timing and frequency of Total Transfer Capability calculations needed for Available Transfer Capability calculations. A team was assembled from several original members of the ATC-TTC-CBM-TRM Drafting Team to develop an interpretation, and the team began drafting that interpretation.

At its July 2011 meeting, the Standards Committee identified a way of using the existing standard development process to make a clarifying change to a standard in roughly the same amount of time required to develop and approve an interpretation. The process, called “rapid revision,” uses the existing standard development process, but limits the scope of standard development to a very specific change that is expected to meet with stakeholder consensus without the need for significant debate.

At that same July meeting, the Standards Committee approved (with FPL’s consent) using FPL’s request for interpretation of MOD-028-1 to pilot the rapid revision approach. The interpretation drafting team was then appointed as the standard drafting team and directed to submit both a Standard Authorization Request and proposed revisions to MOD-028-1 addressing the issue raised in the FPL request.

The standard was posted for a parallel comment period and initial ballot on October 3, 2011, with the ballot conducted November 7–16, 2011. The ballot achieved an 85.53 percent approval, with a quorum of 88.05 percent. A recirculation ballot was conducted from December 12–22, 2011, and the interpretation was approved by stakeholders, achieving a 92.49 percent approval with a quorum of 90.10 percent.

The Rapid Revision pilot project completed a successful ballot less than three months after the initial posting.

Summary

Requirement R3 was modified to clarify language regarding load forecasting, to indicate that for days two through 31, a daily load forecast is required (identical to the current standard); for months two through 13, a monthly load forecast is required (identical to the current standard); and for current-day and next-day, entities may use either a daily or hourly load forecast (the language being clarified).

Originally, the current-day and next-day Total Transfer Capability values were referred to as “on-peak and off-peak intra-day and next day.” However, this language was interpreted by some as requiring specific on-peak and off-peak load forecasts. This was not the intent of the original standard drafting team. The intent was to specify that for Total Transfer Capabilities used in current day and next-day Available Transfer Capability calculations, the load forecast used should be consistent with the period being calculated (e.g., an intra-day Available Transfer Capability calculation should not be based on a monthly load forecast).

The new language clarifies and is consistent with the intent of the original requirement language and does not materially change the standard.

The VRFs for the standard were not modified, and are pending action by FERC. An errata correction was made to the VSLs for Requirement R4 correcting an inadvertent reference to Requirement R5. Other administrative modifications were made to the compliance elements of the standard to bring it into conformance with current guidelines.

A link to the project history and files is included here for reference:

<http://www.nerc.com/filez/standards/2011-INT-01 Interpretation MOD-028-1 FPL.html>

If trustees have questions or need additional information, they may contact Herb Schrayshuen at herb.schrayshuen@nerc.net.

Regional Standard and Standards Development Procedure

Action

Approve or discuss reliability standard and procedures as follows:

- a. Reliability Standard PRC-006-NPCC-1 – Automatic Underfrequency Load Shedding
- b. Revision 2 of SERC Reliability Corporation Regional Standards Development Procedure

8a. Reliability Standard PRC-006-NPCC-1 – Automatic Underfrequency Load Shedding

Action

Approve the following standards documents and direct staff to file with applicable regulatory authorities:

- **Reliability Standard PRC-006-NPCC-1 – Automatic Underfrequency Load Shedding**
[\[PRC-006-NPCC-1 – Clean\]](#)
- **Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) for PRC-006-NPCC-1**
[VRFs and VSLs are available in the Standard above]
- **Implementation Plan for PRC-006-NPCC-1**
For the Eastern Interconnection and Québec Interconnection portions of NPCC excluding the Independent Electricity System Operator (IESO) Planning Coordinator area of NPCC in Ontario, Canada:

The effective date for Requirements R1, R2, R3, R4, R5, R6, and R7 is the first day of the first calendar quarter following applicable regulatory approval but no earlier than January 1, 2016. The effective date for Requirements R8 through R23 is the first day of the first calendar quarter two years following applicable governmental and regulatory approval.

For the Independent Electricity System Operator (IESO) Planning Coordinator's area of NPCC in Ontario, Canada:

All requirements are effective the first day of the first calendar quarter following applicable governmental and regulatory approval but no earlier than April 1, 2017.

Background

PRC-006-NPCC-1 – Automatic Underfrequency Load Shedding (“NPCC UFLS Standard”) was developed to provide regional requirements for Automatic Underfrequency Load Shedding (UFLS) to applicable entities in NPCC. UFLS requirements have been in place at a continent-wide level and within NPCC for many years prior to implementation of federally mandated reliability standards in 2007. NPCC and its members believe that a region-wide and fully coordinated single set of UFLS requirements is of benefit to achieving an effective and efficient UFLS program, and their experience has supported that belief.

No ERO Standards will be retired as a result of this action; however, existing [NPCC Directory #12](#) (which contains regional criteria and outlines the Automatic Underfrequency Load Shedding program) will be retired upon approval of PRC-006-NPCC-1 by all required and applicable governmental and regulatory authorities in the U.S. and Canada.

NPCC's Board of Directors (BOD) has also required regional staff to develop and implement a Cost Effective Analysis Procedure (CEAP). The CEAP involved a cost/benefit-type analysis and a cost effective analysis to determine the implementation expenditures required to comply with the proposed standard. The CEAP also affords stakeholders an opportunity to provide input regarding the effectiveness of a standard's requirements to meet its stated reliability

objectives. The results of the CEAP for this standard were posted in a report, along with the standard, during ballot to give stakeholders and the NPCC BOD a better understanding of costs and how the industry viewed the effectiveness of the proposed standard. This CEAP document has been shared with NERC to provide a foundation of principles on which a NERC ERO CEAP may be developed, and is responsive to FERC's stated concerns regarding costs of reliability standards.

Discussion

PRC-006-NPCC-1 ensures the development and implementation of an effective UFLS program for entities in the NPCC region in order to preserve the security and integrity of the bulk power system during declining system frequency events.

Each NPCC Regional Reliability Standard serves to enable or support one or more of the NERC reliability principles, thereby ensuring that each standard serves to support the reliability of the regional bulk electric system. Each of the NPCC standards is also consistent with all of the NERC reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence or conflict. The NERC reliability principles supported by this standard are:

- Reliability Principle 1 — Interconnected bulk electric systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions as defined in the NERC Standards.
- Reliability Principle 2 — The frequency and voltage of interconnected bulk electric systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.

The NPCC UFLS Standard applies to each Generator Owner, Planning Coordinator, Distribution Provider, and Transmission Owner in the NPCC Region. The purpose of this standard is to provide a regional reliability standard that ensures the development of an effective UFLS program to preserve the security and integrity of the bulk power system during declining system frequency events in coordination with the NERC UFLS reliability standard characteristics. Once approved by the appropriate authorities, the NPCC Regional Reliability Standard will facilitate NPCC's ability to monitor and enforce compliance consistent with NPCC's regional delegation agreements and the NERC Rules of Procedure.

The standard was processed through NPCC's approved standards development process, which included four postings for stakeholder comment over a three-year period, an initial ballot, a recirculation ballot, and approval by NPCC's BOD. In addition, the standard has undergone two complete quality reviews by NERC staff, and was posted at NERC for review to discover any process, interregional reliability, or market concerns. The comments submitted during these postings have all been addressed.

Standards Staff View of VRFs and VSLs

The non-binding poll of VRFs and VSLs was conducted during the recirculation ballot of the associated standard. NERC standards staff is not recommending any modifications to the VRFs and VSLs posted for the nonbinding poll.

Minority Issues

There were several minority issues raised during the development process:

- **Issue:** Some expressed concern that it is not clear within the standard what the Regional Entity will do with the information provided by the Planning Coordinator. These entities stated that it is likely studies will show some individual generating units or a generating plant/facility ≥ 1 MVA be required to support the UFLS program.

Response: In accordance with Requirement R2 each Planning Coordinator will be responsible for identifying the generation facilities within their Planning Coordinator area that are necessary to support the UFLS performance characteristics. Following the identification of these generators the Regional Entity will formally notify the facilities of their critical nature and potential impact on the UFLS program. This activity will be outside of the standard and addressed through NPCC's Reliability Assessments and Performance Analysis processes which currently are directing all UFLS study assessments and activities within the NPCC Region.

- **Issue:** Some expressed concern that the process by which a Generator Owner would arrange for a Distribution Provider or Transmission Owner to provide the appropriate amount of compensatory load shed (Reference Attachment B, Step 2.2) remains unresolved.

Response: The drafting team considered a number of different options for compensatory load shedding and also received input and direction from regulators on this issue. The criteria appended to the standard as Attachment A and B are intended to provide a road map for units which do not conform to the curve enabling them to obtain compensatory load shedding. These criteria generally have been developed from the existing processes currently employed within the NPCC region. In addition, specific criteria for compensatory load shedding for UFLS have been developed at the request of FERC staff. These criteria appear in Attachments A and B of the standard.

- **Issue:** Some expressed concern that that Requirements R4 and R5 may present double jeopardy. Requirement R5 states "Each Distribution Provider or Transmission Owner that must arm its load to trip on underfrequency in order to meet its requirements as specified and by doing so exceeds the tolerances and/or deviates from the number of stages and frequency set points of the UFLS program as specified in the tables contained in Requirement R4 above, as applicable depending on its total peak net Load shall ..." If a Distribution Provider or Transmission Owner meets the criteria specified in Requirement R5, they have, by definition, not met Requirement R4 (they exceed the tolerances and/or deviate from the number of stages and frequency set points as specified in the tables contained in Requirement R4).

Response: There is no intent to put any entity in double jeopardy. An entity may only use Requirement R5 in the specific instance that it "[p]rovide(s) its Planning Coordinator with an analysis demonstrating that no alternative load shedding solution is available that would allow the Distribution Provider or Transmission Owner to comply with UFLS Attachment C Table 2 or Attachment C Table 3" (Requirement R5 Part 5.4) and that it "[p]rovide(s) its Planning Coordinator with a technical study that demonstrates that the Distribution Providers or Transmission Owners specific deviations from the requirements of UFLS Attachment C, Table 1 will not have a significant adverse impact on the bulk power system" (Requirement R5 Part 5.4). If this is demonstrated, an entity

would be responsible for complying with Requirement R5 instead of Requirement R4. NPCC typically handles situations such as this with Compliance Guidance Statements if formal procedures are required. NPCC compliance auditors and staff have not identified any issues with implementing compliance with the proposed standard.

A link to the project history and files is included here for reference:

<https://www.npcc.org/Standards/SitePages/DevStandardDetail.aspx?DevDocumentId=4>

If trustees have questions or need additional information, they may contact Herb Schrayshuen, Vice President of Standards and Training at herb.schrayshuen@nerc.net.

8b. SERC Reliability Corporation Regional Standards Development Procedure

Action

Approve the following standards document and direct staff to file with applicable regulatory authorities:

- **Revision 2 of SERC Reliability Corporation Regional Standards Development Procedure**
[\[SERC Regional Standards Development Procedure-Revision 2\]](#)

Background

Revision 1 of the SERC Regional Standards Development Procedure, Exhibit C to SERC Regional Delegation Agreement, was approved by FERC and became effective January 3, 2009. Revisions of this document were required to: 1) address the document's three-year review and re-approval requirement; 2) address issues identified during the NERC 2009 audit of SERC; 3) make revisions to improve process efficiency and reduce the time required to develop a regional standard; 4) ensure alignment with the NERC Standard Processes Manual; and 5) ensure alignment with the revised SERC Bylaws. Revision 2 was approved by the SERC Board Executive Committee on December 14, 2011.

Discussion

The following changes were made based on NERC's 2009 audit of the SERC Regional Standards Development Procedure:

- The notification language in Steps 4, 7, 8, 10, and 12 was revised to include all Regional Entities. The prior version only required notifying adjacent Regional Entities. In practice this notification will aid the Regions in determining whether the proposed Regional Standard's scope should be expanded to an interconnection-wide or continent-wide basis.
- A sentence was added to Step 6 to require SERC Standards Committee re-approval for any revision to a standard drafting team's work plan which delays the ballot by 60 days to provide additional controls for the project schedule.
- Step 6 was further modified to require the completion of the work product prior to ballot. The modification also requires that each document associated with a standard be included in at least one formal comment period. This change will ensure that stakeholders have an opportunity to comment on all relevant documents.

The following changes were made to improve process efficiency and reduce the time required to develop a regional standard:

- The Review and Re-Approval Requirement was changed from three years to five years.
- The term "Compliance Advisory Groups" was deleted from the Process Roles section since the Compliance Advisory Groups are not included in any process steps.
- The meeting notice period was changed from 21 days to seven days for a conference call or WebEx meeting. Notice for an in-person meeting continues to be 21 days.
- A new Step 11 was added to request NERC's posting for comment after receipt of Ballot Pool approval, but before adoption by the SERC Board of Directors. This eliminates the

scenario where a NERC posting identifies the need for a change after the standard has been approved by the SERC Board of Directors.

The following changes were made to ensure alignment with the NERC Standard Processes Manual and the revised SERC Bylaws:

- A requirement was added to Step 4 to include with the SAR posting a comment form and a nomination form to serve on the drafting team.
 - A requirement was added to Step 4 to develop a response to comments received from the SAR posting and for the assigned SERC Standing Committee(s) Executive Committee(s) to approve any SAR revisions.
 - The names of two applicable entities were updated to be consistent with the terms used in the NERC Reliability Functional Model Version 5.
 - The Interpretation of Standards process was revised to include ballot body and FERC approval.
 - The statement that VSLs are part of and balloted with the standard was deleted.
- All applicable references to “SERC Board Approval” were changed to “SERC Board Adoption.”

A link to the project history and files is included here for reference:

<http://serc.centraldesktop.com/standardhomepage/doc/13485845/w-Revision2OfSercRegionalStandardsDevelopment>

If trustees have questions or need additional information, they may contact Herb Schrayshuen, Vice President of Standards and Training at herb.schrayshuen@nerc.net.

**Proposed Amendments to NERC Rules of Procedure
Including Appendices 2, 4B, 4C, 5A 5B and 8 and
Deletion of Appendices 3C and 6**

Action

Approve proposed amendments to the NERC Rules of Procedure (ROP) in Sections 300, 400, 500, 600, 800, 1000 and 1400, and Appendices 2, 4B, 4C, 5A and 5B, and the deletion of Appendices 3C and 6, and direct staff to file the amended ROP with the appropriate regulatory authorities for approval.

A detailed summary of the proposed amendments on a section-by-section basis follows.

Redlined versions of the proposed amended ROP are provided here:

Rules of Procedure Sections 100-1700

Appendix 2

Appendix 4B

Appendix 4C

Appendix 5A

Appendix 5B

Previously, proposed revisions to each of the above-listed ROP documents were filed with FERC for approval on one or more of the following dates and have not yet been acted on by FERC: March 18, November 7 and November 29, 2011 and January 25, 2012. The redlined documents being provided here assume all previously-filed revisions are accepted, and show, in redline, only the proposed amendments now being presented for approval against the most recently-filed versions.

Background

During 2011, several teams or working group were formed to conduct reviews of the ROP and Appendices to identify any amendments that should be considered based on ongoing experience, changes in strategy or other processes, stakeholder concerns, and other factors. The last comprehensive review of the ROP had occurred in late 2009-early 2010 in connection with the renegotiation of the delegation agreements and implementation of actions identified in NERC's *Three-Year ERO Performance Assessment Report* in 2009. The teams included a working group of NERC and Regional Entity Compliance Program personnel and a working group of NERC and Regional Entity Legal personnel. Reviews of ROP sections and Appendices relevant to their activities were also undertaken by NERC departments including Standards, Organization Registration and Certification, and Event Analysis and Investigations. These working groups and internal reviews produced numerous proposals for amendments to the ROP and Appendices. The proposals were carefully reviewed by NERC management to eliminate proposals that, while they may have represented the proponent's view of a better way to state the particular provision, did not appear to be warranted based on experience or on

developing changes in processes, or as a clear improvement in the clarity of the text of the provision. Versions of the ROP documents reflecting the results of this top-level review were circulated to participants for additional comment.

As part of this process, there were two postings of proposed revisions to the ROP and Appendices for stakeholder comment. Proposed revisions to ROP sections 100-1600 and Appendices 4B and 4C were posted for comment from July 1 – August 15, 2011. Numerous comments were received. Based on the comments received on this posting, additional revisions (including deletion of some of the originally-proposed amendments) were made to ROP sections 100-1600 and Appendices 4B and 4C. A second posting period for stakeholder comment occurred from November 7 to December 22, 2011, involving proposed revisions to ROP sections 100-1700, Appendices 4B, 4C, 5A and 8 and the proposed deletion of Appendices 3C and 6. Numerous comments were also received on this posting. Based on the comments received on the second posting, additional revisions have been made to the proposed amendments, to arrive at the documents now being presented to the Board of Trustees for approval. The detailed summary of the proposed amendments, provided as part of this Agenda item, notes where revisions have been made based on or in response to stakeholder comments received on the November 7-December 22, 2011 posting.

ROP Appendix 2, *Definitions Used in the Rules of Procedure*, was not included in either of the above-described postings. Appendix 2 was filed with FERC for approval on November 29, 2011, as a new ROP Appendix created for the purpose of collecting all defined terms used in the ROP and Appendices in one location. Revisions to Appendix 2 were filed with FERC on January 25, 2012, as part of the filing for approval of the revised Bulk Electric System (BES) Definition and the proposed BES Exception Procedure. However, proposed Appendix 2 was included in a separate posting for stakeholder comment from September 2–October 17, 2011. The proposed revisions to Appendix 2 (as filed with FERC on January 25, 2012) included in the current set of proposed ROP amendments are only those revisions to Appendix 2 as filed on January 25, 2012, necessary to conform defined terms to the revisions now being proposed in other sections and Appendices of the ROP. Similarly, Sections 1701 and 1702 of the ROP were originally filed with FERC on March 18, 2011 and Section 1703 was filed with FERC on January 25, 2012, each as a proposed new section; FERC has not yet acted on these filings. The current proposed amendments to the ROP include minor, non-substantive revisions to Sections 1702 and 1703 for consistency and conformance with proposed revisions to other ROP provisions. Finally, no changes to Appendix 5B were included in the November 7 – December 22 posting; however, a single change to Appendix 5B is now being proposed for approval as a conforming change to a proposed change to Appendix 5A, based on a comment from a stakeholder (the Compliance and Certification Committee) on the November 7 – December 22 posting that a conforming change to Appendix 5B was needed.

Proposed Deletion of Appendix 3C and Appendix 6

The Board of Trustees is asked to approve the proposed deletion of Appendix 3C, *Procedure for Coordinating Reliability Standards Approvals, Remands, and Directives*, and Appendix 6, *System Operator Certification Program Manual*. Appendix 3C is proposed for deletion as no longer necessary. It was originally developed in response to directives in FERC's July 2006 *ERO Certification Order*, concerning coordination among applicable North American regulatory bodies with authority over development and approval of Reliability Standards for the bulk power system, specifying that NERC should identify the relevant regulatory bodies and their respective standards approval and remand processes that will be implicated in any remand of a proposed Reliability Standard, and should specify the actual steps to coordinate these processing requirements, including those that may be necessary for an expedited deadline to return a remanded proposed Reliability Standard. As NERC has continued, subsequent to 2006, in its efforts to gain recognition as the ERO and adoption of mandatory standards in Canadian provinces and Mexico, the requirements and processes applicable to adoption and revision of Reliability Standards in the non-U.S. jurisdictions have been established by legislation or regulation with those jurisdictions or by memoranda of understanding (MOU) between NERC and the Applicable Governmental Authorities. As the concerns underlying the directives in the ERO Certification Order are now addressed through legislation, regulation, or MOU in or with the non-U.S. Applicable Governmental Authorities, Appendix 3C can be deleted.

Appendix 6 is being deleted because it contains a considerable amount of administrative detail concerning operation of the System Operator Certification (SOC) Program, which does not need to be included in the ROP. For example, it should not be necessary to present an ROP amendment to the Board and then to FERC for approval just to make minor administrative changes to the SOC Program. Substantive provisions of the SOC Program that are currently included in Appendix 6, and are appropriately included in the ROP, are being moved into Section 600 of the ROP, and are described in the detailed summary provided with this Agenda item. The Personnel Certification Governance Committee (PCGC), which has authority and responsibility for the SOC Program, concurs with this approach. The PCGC intends to maintain a non-ROP Program Manual containing program administrative details for the use of system operators and other stakeholders.

Discussion of Proposed Amendments of Significant Interest

As noted, a detailed section-by-section summary of the proposed amendments to the ROP and Appendices is provided as part of this Agenda item. The following discussion describes several proposed amendments that have been of particular interest to stakeholders during the development process.

ROP §403.15 and §409. These sections have been amended or added to allow a Regional Entity to take an appeal to NERC of the decision of a Regional Entity Hearing Body on a disputed compliance matter, and to specify procedures for such an appeal. Presently, only the registered entity that is the subject of the Alleged Violation, proposed Penalty or Mitigation Plan, or Remedial Action Directive on which the hearing was held may appeal the Regional Entity Hearing Body's decision to NERC. Many stakeholders commented that the Regional Entity should not be allowed to appeal a decision of its Hearing Body to NERC. NERC staff believes these amendments are appropriate in light of the evolution of the Regional Entity hearing process and procedures. A hearing at the Regional Entity level was originally

envisioned as the culmination of the compliance enforcement process at the Regional level. However, as the Regional Entity hearing process has evolved over time through a series of amendments to the uniform Hearing Procedures (Attachment 2 to Appendix 4C) and changes to Regional Entity Compliance Programs and other governance documents, in response to FERC directives and to concerns for greater due process in the Hearing Procedures, the Hearing Bodies are not extensions of the Regional Entity Compliance Program. Rather, they are independent tribunals with separation of functions from the Regional Entity Compliance Program, responsible to conduct due process hearings and rendering independent decisions. Thus, the typical hearing on a disputed compliance matter would find the registered Entity litigating against the Regional Entity Compliance Staff before an independent decision-making body. Given these circumstances, it is appropriate to provide the Regional Entity Compliance Program, as well as the registered entity, the ability to appeal the Regional Entity Hearing Body decision to NERC. Further, the Regional Entities act only through delegated authority from NERC as approved by FERC and other Applicable Governmental Authorities; NERC has ultimate responsibility for enforcement of compliance with mandatory Reliability Standards. Allowing the Regional Entity to appeal the decision of the Regional Entity Hearing Body on a disputed compliance matter allows the Regional Entity Compliance Program to bring the matter before NERC for ultimate disposition.

ROP §412 and Appendix 4C, Attachment 2 (Hearing Procedures), §1.5.12. These proposed new sections establish a procedure by which a question arising during a hearing before a Regional Entity Hearing Body on a disputed compliance matter can be certified to the NERC Board of Trustees for decision and decided by the Board of Trustees Compliance Committee (BOTCC). This procedure will be similar to, and in significant part has been modeled on, the procedure available under the FERC Rules of Practice and Procedure whereby a FERC Administrative Law Judge may certify a question arising during a FERC administrative hearing to the Commissioners for decision. A specific procedure of this type does not presently exist in the ROP. Based on experience, questions have arisen during Regional Entity hearings as to which it would have been useful to have the question certified to the BOTCC for decision prior to proceeding through the entire Regional Entity hearing process.

During the two posting periods, stakeholders have expressed concerns over the proposal for a “certification of questions” procedure on several grounds, including that it can cause unwarranted delay and expense in the hearing process, particularly if the procedure is too readily available; that it may infringe on the standards development process if the BOTCC is asked to “interpret” the Reliability Standard that is the subject of the Alleged Violation; and that it was unclear as to whether the BOTCC’s decision on a certified question will be precedential and applicable to/binding on other registered entities and Regional Entities (and, if so, whether other entities should be allowed to participate in litigation of the certified question before the BOTCC). NERC staff believes the proposed ROP provisions being presented for approval have been revised through the development process to be responsive to stakeholder comments. First, only the Regional Entity Hearing Body may decide to certify a question to the NERC Board of Trustees for decision. Second, to do so, the Hearing Body must determine that the question is “a significant question of law, policy or procedure the resolution of which may be determinative of the issues in the hearing in whole or in part and as to which there are other extraordinary circumstances that make prompt consideration of the question by the Compliance Committee appropriate.” (§412.1) Third, text in previous proposed versions that

stated a permissible certified question could include a question of interpretation of a Reliability Standard has been deleted. Fourth, the BOTCC may decline to accept a certified question. Fifth, the following limitation on the decision of a certified question has been added: “The Compliance Committee’s decision, if any, on the certified question shall only be applicable to the hearing from which the question was certified and to the Participants in that hearing.”

ROP §413. This proposed new section specifies that NERC shall review and process final decisions of Regional Entity Hearing Bodies concerning Alleged Violations, proposed Penalties or sanctions, or proposed Mitigation Plans, that are not appealed by one or more of the parties to the BOTCC, as though the determination was made by the Regional Entity Compliance Program without a hearing; and that NERC may require that the decision be modified by the Regional Entity, in accordance with sections 5.8, 5.9 and 6.5 of Appendix 4C. In other words, under this provision, NERC will review final Regional Entity Hearing Body decisions determining (for example) whether a violation occurred, or the imposition of a Penalty for a violation, in the same manner that NERC reviews proposed dispositions of Alleged Violations and proposed Penalties determined by the Regional Entity Compliance Staff. Stakeholder concerns and objections regarding this provision were similar to the concerns raised with the “Regional Entity can appeal” provisions discussed above. However, NERC staff believes that in order to carry out its responsibility and perform its function of ensuring consistency in violation, Penalty and Mitigation Plan determinations for similar facts and circumstances and among Regional Entities, it is necessary for NERC to review determinations by Regional Entity Hearing Bodies concerning Alleged Violations, Penalties and Mitigation Plans just as it reviews violations, Penalties and Mitigation Plans determined or approved by Regional Entity Compliance Staffs. Further, as noted earlier, the Regional Entities enforce compliance with mandatory Reliability Standards solely through delegated authority from NERC as approved by Applicable Governmental Authorities; NERC has the ultimate responsibility for compliance enforcement. Therefore, it is appropriate that NERC should review, and if necessary require modifications to, Regional Entity Hearing Body determinations. Further, NERC’s ability to review a Regional Entity Hearing Body determination on a disputed compliance matter should not depend on whether or not one of the Participants in the hearing elects to take an appeal of the decision to NERC.

Appendix 4C, §5.11. This proposed new section establishes a procedure whereby an ISO or RTO (ISO/RTO) that is the subject of an Alleged Violation and is authorized pursuant to tariffs, agreements or other governance documents to allocate all or part of the Penalty to a third party whose acts or omissions may have caused or contributed to the violation, can request the Regional Entity (Compliance Enforcement Authority or CEA) to make a determination, as part of the enforcement process for the Alleged Violation, that the acts or omissions of a specified third party(ies) in fact caused or contributed to the violation. The ISO/RTO must also give notice to the specified third party(ies), and the third party(ies) will then be entitled to participate in the enforcement process if it requests. The CEA would not determine whether or in what proportion the Penalty (if any) should be allocated to the third party(ies), but only whether the third party’s acts or omissions caused or contributed to the violation. As provided for in FERC Orders, the ISO/RTO would then be required to initiate a separate proceeding at FERC under §205 of the Federal Power Act to allocate the Penalty to the third party(ies), in which the CEA or NERC would not be involved.

This provision has its origins in a Guidance Order issued by FERC in 2008 on the subject of allocations by ISO/RTOs of Penalties for Reliability Standard violations to the ISO/RTO's customers, members and other third parties. The provision has gone through numerous iterations and has been the subject of considerable interaction among NERC, Regional Entities, the ISO/RTO Council (IRC) and other interested stakeholders. NERC staff believes that provisions in the version of §5.11 posted for comment from November 7–December 22 that the IRC and other stakeholders found particularly objectionable have been removed from the version being presented for approval. These deleted provisions included a requirement for the ISO/RTO to maintain a “public notification list” of all entities to which the ISO/RTO could allocate Penalties, and text that made it appear that in each individual case the CEA would make an independent determination as to whether the ISO/RTO had authority to allocate Penalties to third party(ies). However, in order to justify the introduction of the additional issue into the CEA enforcement process, the resulting expenditure of additional time and resources in the enforcement process by the CEA, and allowing third party(ies) to participate in the enforcement process, it will be necessary for the ISO/RTO to make a showing in each case that the particular third party(ies) it contends caused or contributed to the violation are within the scope of the ISO/RTO's authority to allocate Penalties, whether that authority is based on tariff provisions, agreements, or other governance documents. The version of §5.11 being presented for approval has been streamlined in other respects from previously posted/circulated versions.

Under proposed §5.11, the ISO/RTO can ask the CEA to determine if registered entities or non-registered entities caused or contributed to the violation. This is based upon the guidance in previous FERC Orders, which properly recognized that CEA enforcement staffs have the training, experience and expertise to evaluate and determine the causes of, and contributions to, a violation.

ROP §1401. In the November 7 posting, NERC proposed to amend ROP §1401 to change the number of Members needed to request an amendment or repeal of the ROP from 10 Members to 50 Members. This change was proposed because Article XI, section 2 of the NERC Bylaws states that 50 Members are needed to request an amendment or repeal of the ROP.

Stakeholders commented that the required number of Members should be 10 as specified in ROP §1401, not 50 as specified in the Bylaws. The proposed change to §1401 to increase to 50 the number of Corporation Members required to request a ROP change is being proposed to track the Bylaws, as originally posted. There exist several avenues by which a ROP change can be proposed:

“Proposals to adopt new Rules of Procedure or to amend or repeal existing Rules of Procedure may be submitted by (i) the Member Representatives Committee, (ii) any fifty (50) members of the Corporation, which number shall include members in at least three sectors, (iii) a committee of the Corporation to whose purpose and functions the Rule of Procedure pertains, or (iv) an officer of the Corporation.”

At the time the Bylaws were drafted, NERC intentionally chose 50 Members to request an amendment to the ROP as a matter of sound governance, in order to screen out possible

changes that have little support and cannot otherwise obtain the support of the Member Representatives Committee, NERC staff, or a relevant NERC committee.

Proposals Withdrawn in Response to Stakeholder Comments. During the development of the ROP revisions and in response to stakeholder comments on the July 1, August 15 and November 7–December 22 postings, several proposed additions or revisions to the ROP have been withdrawn. The withdrawn proposals include a proposed provision, included in the July 1 posting, that would have enabled NERC or a Regional Entity to impose fines, not to exceed \$5,000, on registered entities for failure to provide data and information requested in connection with compliance monitoring and enforcement processes, event analysis, notifications issued pursuant to ROP section 810, or pursuant to ROP section 1600. In addition, the proposed revised version of Appendix 8 posted in the November 7–December 22 posting drew significant stakeholder comment, with much of that comment pertaining not to specific provisions in revised Appendix 8, but rather to (i) the relationship between Appendix 8 and the new *ERO Event Analysis Process* manual, and (ii) the respective levels of detail and subject matter content of these two documents. Because of the nature of these comments, NERC staff is not presenting a revised version of Appendix 8 for Board approval at this time; rather, revisions will be presented at a later time.

Summary of Proposed Rules of Procedure Revisions

I. Rules of Procedure (ROP) Sections 100-1700¹

A. Section 200 – Definitions of Terms

All definitions have been removed from Section 200. All definitions used in the ROP and Appendices are now found in Appendix 2, which was originally filed with FERC for approval on November 29, 2011.

B. Section 300 – Reliability Standards Development

Section 304.1 – Added “and entities” for clarity and completeness.

Section 304.4 – Revised for consistency with Appendix 3A, *Standard Processes Manual*.

Section 305.5 – Corrected Appendix reference from Appendix 3A to Appendix 3D.

Section 306.1 – Added text to reflect that the Standards Committee will include “two officers elected to represent the interests of the industry as a whole.”

Section 306.2 – Corrected reference from Appendix 2 to Appendix 3B.

Section 306.3 – Deleted specific provisions on Canadian representation and replaced them with: “The Standards Committee will include Canadian representation as provided in **Appendix 3B**, *Procedure for the Election of Members of the NERC Standards Committee*.” This topic is covered substantively in Appendix 3B.

Section 307 – Changed title to “Standards Process Management”; revised text to describe functions of the NERC regional standards manager as well as the NERC standards process manager.

Sections 308.1 – Revised text to refer to expedited processes for developing Reliability Standards, including developing Reliability Standards to address national security situations that involve confidential issues (replacing reference to “urgent action” reliability standards). “Urgent action” is no longer used in Appendix 3A.

Section 308.2 & 308.3 – Revised text to reflect that Reliability Standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements).

¹ The ROP Sections 100-1700 file incorporates revisions previously filed with FERC for approval on March 18, November 7 and November 29, 2011, and January 25, 2012, as though approved, and shows the proposed additional revisions in redline. Sections that do not have proposed revisions are not discussed in this Summary.

Section 309.1 – Revised text to reflect that Reliability Standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements).

Section 309.2 – Changed reference from “expedited action procedure” to “expedited standards development process”.

Section 309.3 – Deleted provision that where an Applicable Governmental Authority directs development of a Reliability Standard by a deadline, NERC staff must, after preparing a Standard Authorization Request (SAR), attempt to find a stakeholder sponsor for the SAR. Also changed reference from “expedited action procedures” to “expedited action process” for consistency with Appendix 3A.

Section 309.3.1 – Deleted this section as no longer necessary based on the current version of Appendix 3A.

Section 311.3.1.3 – Changed text from “control the vote on a matter” to “dominate a matter” to be consistent with terminology in §304.4 and in Appendix 3A.

Section 311.3.1.6 – Deleted reference to accreditation of a Regional Standards Development Procedure by the Standards Council of Canada as sufficient to establish compliance with the evaluation criteria in §311.3.1. The Standards Council of Canada has advised NERC that accreditation by that body is not available to entities based in the U.S.

Section 312.1 – Revised text to make clear that Regional Reliability Standards must be submitted to NERC for adoption, and, if adopted, become part of the NERC Reliability Standards.

Sections 312.3.3, 312.3.4, 312.3.5, 312.4.2, 312.4.3, 312.4.4, 312.4.5, 312.5 – Revised text to reflect that Regional Reliability Standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements). These revisions are based on a stakeholder comment on the November 7 posting.²

Section 313.1 – Added “NERC” before “Reliability Standards” for clarity.

Section 315 – Changed title of section to refer to the NERC Standard Processes Manual, which is the current title of Appendix 3A.

Section 316 – Deleted reference to seeking “continuing” accreditation since ANSI does not grant “continuing” accreditation, and replaced it with a statement that NERC will “seek and maintain” accreditation. Also, deleted reference to seeking accreditation from the Standards Council of Canada; the Standards Council of Canada has advised that accreditation is not available to NERC since it is not based in Canada.

² The November 7 posting refers to the posting of the proposed ROP revisions for stakeholder comment from November 7 through December 22, 2011.

Section 317 – Revised text as follows: “NERC shall complete a review of each NERC Reliability Standard at least once every five years, or such longer period as is permitted by the American National Standards Institute, from the effective date of the Reliability Standard or the latest revision to the Reliability Standard, whichever is later.” It may be possible to obtain relief from ANSI from the requirement that each Reliability Standard be reviewed at least every five years.

Section 318 – Deleted reference to “through a memorandum of understanding.” The details of the memorandum of understanding are lost in time and the key aspect of this provision is that NERC will continue to maintain close working relationships with the North American Energy Standards Board and the ISO/RTO Council to coordinate wholesale electric business standards and market protocols with NERC Reliability Standards. This revision is based in a stakeholder comment on the November 7 posting.

Section 319 – (i) Changed reference to “standards that expired or were replaced” to “standards that have been retired,” which is consistent with the terminology NERC uses elsewhere to describe standards no longer in effect. (ii) Changed provision to require that archived Reliability Standards information will be retained at least six (was five) years, which is the outside length of the Compliance Audit cycle for Registered Entities. This change is based on a stakeholder comment on the November 7 posting. (iii) Changed reference to “NERC standards manager” to “NERC standards information manager” – the position of standards information process manager will be responsible for receiving and responding to requests for archived standards information.

Section 320 – The section has been revised to describe generally the process for developing and approving VRFs and VSLs, rather than just the alternate method for adopting VRFs. New §320.1 states that NERC will follow the process for developing VRFs and VSLs set forth in the Standard Processes Manual. New §320.2 states that if an Applicable Governmental Authority remands or directs a revision to a Board-approved VRF or VSL, the NERC director of standards (based on consultation with the standard drafting team), the Standards Committee, and the NERC director of compliance operations, will recommend one of three actions to the Board: (1) file a request for clarification, (2) file a request for rehearing, or (3) approve the directed revision. Section 320.3, which now contains the “alternative procedure,” has been amended to apply to VSLs and well as to VRFs. Section 320.3 (which includes content being moved from ROP §1403, as it is more appropriately located in §300), has also been amended to specify that there will be notice and opportunity for comment before the Board approves a VRF or VSL, and that the Board will consider the inputs of the Member Representatives Committee (MRC), affected stakeholders, and NERC staff. The revisions to §320.3 are based in part on a stakeholder comment on the November 7 posting.

C. Section 400 – Compliance Enforcement

Section 401.6 – For clarity of this point, the second sentence is amended as follows: “Compliance is required, and NERC and the Regional Entities have authority to monitor compliance, with all NERC Reliability Standards whether or not they are included in the subset of Reliability Standards and Requirements designated to be actively monitored and audited in the annual NERC Compliance Monitoring and Enforcement Program Implementation Plan.” Registered Entities are subject to monitoring for compliance with all Reliability Standards

applicable to their registered functions, not just the Reliability Standards on the actively monitored list.

Section 401.7 – Changed reference to “remedial actions” to “Remedial Action Directives,” which is a defined term in Appendix 2. (This change has been made in a number of places throughout the ROP.)

Section 401.8 – Amended section to specify that a Registered Entity shall not be subject to an enforcement action by more than one Regional Entity for the same violation, unless the Registered Entity is registered in more than one Region in which the violation occurred. This revision is based in part on a stakeholder comment on the November 7 posting.

Section 401.9 – Changed reference to “remedial actions” to “Remedial Action Directives.”

Section 401.11 – Added reference to “or other Mitigating Activities” after “Mitigation Plan.” This revision, which is made in a number of places throughout the ROP, reflects the fact that actions taken by a Registered Entity to correct and prevent recurrence of a non-compliance, while they are accepted by the Compliance Enforcement Authority (CEA), are not always memorialized in a formal Mitigation Plan. “Mitigating Activities” has been added as a defined term in Appendix 2 and Appendix 4C.

Section 402.5 – The revisions are intended to make the text more consistent with the definition of Remedial Action Directive.

Section 403.6 – (i) Changed reference to “remedial actions” to “Remedial Action Directives.” (ii) Added text to state that the Regional Entity Compliance Staff shall be capable of and required to review and accept Mitigation Plans and other Mitigating Activities; this change is based in part on a stakeholder comment on the November 7 posting.

Section 403.7.3 – Changed reference to “remedial actions” to “Remedial Action Directives.”

Section 403.10.5 – (i) Added statement that a Mitigation Plan is required to be submitted in the event of a noncompliance “unless an enforcement process is used that does not require a Mitigation Plan.” Stakeholder comments pointed out that NERC has adopted enforcement process options that do not require the Registered Entity to submit a Mitigation Plan. (ii) Also changed text to state that the Regional Entity Compliance Staff shall “accept” (not “approve” proposed Mitigation Plans (Mitigation Plans are “approved” by NERC).

Section 403.14 – This section is amended to make clear that Confirmed Violations, Penalties and sanctions specified in a Regional Entity Hearing Body final decision (as well as Confirmed Violations, Penalties and sanctions developed by the Regional Entity through the enforcement process without a hearing) will be provided to NERC for review and filing with the Applicable Governmental Authorities as a Notice of Penalty.

Section 403.15 – The last paragraph of this section is amended to provide that a Regional Entity (as well as a Bulk Power System owner, operator or user) may appeal a Regional Entity Hearing Body decision to NERC in accordance with §409. (See further discussion under §409, below.)

Section 403.16 – Amended to advance the date by which annual Regional Entity Compliance Monitoring and Enforcement Program Implementation Plans are to be submitted to NERC, from November 1 to October 1 of the preceding year.

Section 407.1 – Changed references to “remedial actions” to “Remedial Action Directives” to reflect the context. In addition, the section is amended to provide that NERC will review Penalties, Sanctions and Remedial Action Directives specified by a Regional Entity Hearing Body final decision, to determine if the determination is supported by a sufficient record, consistent with the *Sanction Guidelines* and other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and consistent with Penalties, sanctions and Remedial Action Directives imposed by the Regional Entity and by other Regional Entities for violations involving the same or similar facts and circumstances. In order to perform its function of ensuring consistency in Penalty determinations for similar violations and among Regional Entities, it is necessary for NERC to review Penalties, sanctions and Remedial Action Directives determined by Regional Entity Hearing Bodies just as it reviews Penalties, sanctions and Remedial Action Directives determined by Regional Entity Compliance Staff.

Section 407.2 – References to “remedial action” were changed to “Remedial Action Directive.”

Section 408 – Several references to the NERC director of compliance are changed to the NERC director of enforcement. Additionally, §408.1 is revised to add reference to Regional Entities appealing decisions of Regional Entity Hearing Bodies pursuant to ROP §409. (See further discussion under §409, below.)

Section 409.1 – The section is amended to reflect that a Regional Entity acting as the Compliance Enforcement Authority, as well as a Bulk Power System owner, operator or user, may appeal a final decision of a Regional Entity Hearing Body to NERC. Another amendment specifies that the entity appealing must submit its notice of appeal to the NERC director of enforcement (formerly director of compliance) and provide copies to the Regional Entity and any other Participants in the Regional Entity Hearing Body proceeding. The last sentence of the section is deleted as unnecessary. The amendment to allow the Compliance Enforcement Authority to appeal a Regional Entity Hearing Body decision to NERC is warranted because as the Regional Entity hearing process has evolved over time through a series of amendments to the uniform Hearing Procedures (Attachment 2 to Appendix 4C) and changes to Regional Entity Compliance Programs (as reflected in Exhibit D to the delegation agreements) and other governance documents, the Hearing Bodies are not extensions of the Regional Entity Compliance Program, but rather are independent tribunals with separation of functions from the Compliance Program, conducting due process hearings and rendering decisions. Thus, the typical hearing on a disputed compliance matter will find the Registered Entity litigating against the Regional Entity Compliance Staff before an independent decision-making body. It is therefore appropriate to provide the Regional Entity Compliance Program, as well as the Registered Entity, the ability to appeal the Regional Entity Hearing Body decision to NERC.

Section 409.2 – Changed “compliance hearing” to “proceeding.”

Sections 409.3 & 409.4 – (i) Changed to reflect that the Regional Entity, as well as the Registered Entity or other Participant, may file an appeal of a Regional Entity Hearing Body decision. (ii) Changed to specify that the Regional Entity shall file the entire record of the Regional Entity Hearing Body with the NERC director of enforcement (formerly director of compliance). The requirement that the Regional Entity must provide a copy of the record to the appellant is deleted, as all Participants should be expected to maintain their own copies of the record as it is compiled during the hearing. (iii) Changed to specify that Participants in the Hearing Body proceeding other than the appellant shall file their responses to the issues raised in the notice of appeal 35 days after the date of appeal (which will allow for at least a 14-day period after the record of the Hearing Body proceeding is filed with the NERC director of enforcement), and to provide that the Participant filing the appeal may file a reply to the responses within 7 days.

Section 409.5 – Changed to specify that in considering an appeal from a Regional Entity Hearing Body decision, the BOTCC may allow other Participants to the Regional Entity Hearing Body proceeding (in addition to the entity appealing), to appear before the BOTCC.

Section 409.8 – New section is added to specify that Section 409 is not applicable to an appeal taken from a decision of the Regional Entity Hearing Body granting or denying a motion to intervene in the Regional Entity hearing, and that such appeals shall be conducted in accordance with ROP §414.

Section 412 – This new section sets forth the procedures by which the NERC BOTCC will accept or reject a question certified to the BOTCC by a Regional Entity Hearing Body (pursuant to §1.5.12 of the Hearing Procedures in Appendix 4C), and if the BOTCC decides to accept the certified question, the procedure for receiving argument from the Participants on, and deciding, the question. (Section 412.2 provides that the BOTCC may reject the certification of a question.) Section 412.5 states that the BOTCC’s decision on a certified question shall only be applicable to the hearing from which the question was certified and the Participants in that hearing; this limitation is based on stakeholder comments on the November 7 posting.

Section 413 – This new section specifies that NERC shall review and process final decisions of Regional Entity Hearing Bodies concerning Alleged Violations, proposed Penalties or sanctions, or proposed Mitigation Plans, that are not appealed to the BOTCC, as though the determination was made by the Regional Entity Compliance Program, and may require that the decision be modified by the Regional Entity, in accordance with sections 5.8, 5.9 and 6.5 of Appendix 4C. In order to perform its function of ensuring consistency in violation, Penalty and Mitigation Plan determinations for similar facts and circumstances and among Regional Entities, it is necessary for NERC to review determinations by Regional Entity Hearing Bodies concerning Alleged Violations, Penalties and Mitigation Plans just as it reviews violations, Penalties and Mitigation Plans determined or approved by Regional Entity Compliance Staffs.

Section 414 – This new section establishes procedures for review and decision by the NERC BOTCC of appeals of decisions of a Regional Entity Hearing Body to grant or deny a request for

intervention in the Regional Entity Hearing Body proceeding. Addition of these procedures is needed due to the proposed amendment to §1.4.4 of the Hearing Procedures to allow the Regional Entity Hearing Body to grant requests to intervene in limited circumstances. New §414.5 recognizes that the BOTCC's decision on the appeal of an intervention ruling may thereafter be appealed to FERC or to another Applicable Governmental Authority having jurisdiction over the matter, in accordance with the authorities, rules and procedures of the Applicable Governmental Authority.

D. Section 500 – Organization Registration and Certification

Section 501 – The second paragraph is revised for clarification to refer to Certification of Registered Entities performing certain specified functions, rather than entities applying to be a RC, BA or TOP.

Section 501.1.3.1 – This section is revised to provide greater specificity with respect to the effective date of an entity's Registration, particularly in the case of Registrations resulting from sales or transfers of Bulk Power System (BPS) assets or from corporate reorganizations that result in a new legal entity owning BPS assets formerly owned by another Registered Entity. The effective date will be stated in NERC's notification of Registration. Where the organization is being registered for the first time and its BPS Facilities were not previously owned by another Registered Entity, the effective date of the Registration will be the date agreed to by the entity to be registered and the applicable Regional Entity. Where the organization is being registered because it has acquired BPS Facilities from a Registered Entity, or based on an internal restructuring or name change where the organization has been registered under a different entity name, the effective date of the Registration will be the effective date of the transaction that results in the organization performing the reliability functions that require it to be registered.

A new second paragraph is added to §501.1.3.1 which specifies that if the Regional Entity and the entity to be registered cannot agree on the effective Registration date, NERC shall set an effective Registration date "that it determines to be appropriate for the reliability of the Bulk Power System." However, the effective date of Registration cannot be earlier than the date of NERC's notification of the Registration date. This new provision is being added to provide a procedure for establishing the entity's effective Registration date when the entity and the Regional Entity cannot agree on the effective Registration date, and is based in part on a stakeholder comment on the November 7 posting.

Finally, the third paragraph of this section is revised to specify that the organization being registered is responsible for compliance with the Reliability Standards applicable to the functions for which it is registered from the effective date of its Registration for each function.

Section 501.2 – This section is amended to refer to the need for certification of Registered Entities that are RCs, TOPs and BAs and Registered Entities that perform some or all of the reliability functions of RCs, TOPs and BAs. The inclusion of Registered Entities that perform some or all of the reliability functions of an RC, TOP or BA is needed because some entities may choose to delegate or contract reliability tasks and/or responsibility for compliance with specific Reliability Standards or Requirements to a third party. When such arrangements occur, the ERO

needs to be able to conduct an appropriate Certification review of the third party's capabilities to perform the delegated certified functions on behalf of the entity that is registered for the certified functions.

Additionally, reference to the NERC Provisional Certification Process is deleted, as that process is no longer needed and is being eliminated.

Section 501.2.1 – Amended to refer to entities intending to perform (as well as Registered Entities performing) the functions of RC, TOPs and BAs, since the Certification process applies to entities seeking to perform these functions as well as Registered Entities already performing the functions.

Section 502.2.2 – Revised to correct a typographical error.

Section 502.2.2.7 – Revised to state that the Certification Team leader shall confirm that all Certification Team members have completed all required training prior to participation in the Certification evaluation. This change is based on a stakeholder comment on the November 7 posting.

Sections 503.3.5.1 and 503.3.5.2 – Deleted references to “NERC/Regional Entity” as unnecessary. Also added a reference in section 3.5.1 to Appendix 5A, where procedures for on-site visits to the Certification applicant's facilities are described in greater detail.

Section 506.4 – (i) Changed “programs” to “Organization Registration and Organization Certification Program,” for clarity. (ii) Revised the text to state that written responses to recommendations in an audit report on the Organization Registration and Organization Certification Programs are due within 30 days of the posting of the final audit report, also for clarity.

Section 508.8 – Revised to correct a typographical error.

E. Section 600 – Personnel Certification

Section 600 has been substantially revised and expanded. Appendix 6, System Operator Certification Program Manual, which contained a considerable amount of administrative detail that does not need to be included in the Rules of Procedure, is being deleted in its entirety, and its substantive provisions are being moved into Section 600.

Section 601 – Scope of Personnel Certification – This section is amended to state (1) that the Personnel Certification Program awards system operator Certification Credentials to individuals who demonstrate that they have attained essential knowledge relating to NERC Reliability Standards as well as principles of BPS operations, and (2) that except as necessary to obtain approval of the ROP, the NERC Personnel Certification Governance Committee (PCGC) is the governing body that establishes the policies, sets fees, and monitors the performance of the Personnel Certification Program for system operators.

Section 602 – Structure of ERO Personnel Certification Program – This section contains existing provisions describing the structure of the Personnel Certification Program. References to the “personnel Certification program governing body” are changed to the PCGC, which is identified in section 601 as the governing body.

Section 603 – Examination and Maintenance of NERC System Operator Certification Credentials – Section 603 is a new section encompassing material being moved from Appendix 6. It describes the basic requirements for obtaining a system operator Certification Credential (*i.e.*, passing an examination) and maintaining the Certification (*i.e.*, earning the necessary number of Continuing Education Hours (CE Hours) during the ensuing three-year period). It also states what occurs should the certified operator fail to obtain the necessary amount of CE Hours during the three-year period, including the procedure for requested a hardship clause exception.

Section 604 – Dispute Resolution Process – Section 604 is a new section encompassing material being moved from Appendix 6. It describes the NERC System Operator Certification Dispute Resolution Process for resolving disputes that arise under the System Operator Certification Program concerning any aspect of the Certification process. The Dispute Resolution Process is for the use of persons who hold an operator Certification or persons wishing to be certified to dispute the validity of the examination, the content of the test, the content outlines, or the Registration process.

Section 605 – Disciplinary Action – Section 605 is a new section encompassing material being moved from Appendix 6. It describes the grounds and procedures for disciplinary action against a system operator, including the hearing process and the possible decisions that may be rendered against the system operator. It also describes the Credential Review Task Force, which will make factual determinations and ultimate determinations as to disciplinary action.

Section 606 – Candidate Testing Mechanisms – This section is currently Section 603 of the ROP. The text has not been revised except to capitalize “Personnel Certification Program.”

Section 607 – Public Information About the Personnel Certification Program – This section is currently Section 604 of the ROP. It has been revised to state that the Personnel Certification Program shall maintain and publish publicly a System Operator Certification Program Manual, covering listed topics; and shall maintain and publish publicly a comprehensive summary or outline of the of the information, knowledge, or functions covered by each system operator Certification examination and a summary of Certification activities for the program.

Section 608 – Responsibilities to Applicants for Certification or Recertification – This section is currently Section 605 of the ROP. Items 8 and 9 in the list of duties and responsibilities of the Personnel Certification Program (implement and publish policies and procedures providing due process for applicants questioning eligibility determination, examination results and Certification status, and develop and maintain a program manual containing the processes and procedures for applicants for Certification and re-Certification) have been deleted since these topics are covered in Sections 604 and 607.

Section 609 – Responsibilities to the Public and to Employers of Certified Practitioners – This section is currently Section 606 of the ROP. It has been revised (1) to delete the provision that the Personnel Certification Program shall periodically publish a current list of those persons who are certified, and (2) to delete a reference to the disciplinary action program being contained in Appendix 6, as it will now be included in Section 605.

F. Section 800 – Reliability Assessment and Performance Analysis

Sections 807 and 808 have been revised to provide for a more consistent use of terms in these sections including “major event” and “occurrences.”

Section 807a is revised to state that in responding to a major event, NERC will work with appropriate Registered Entities as well as with Regional Entities and Reliability Coordinators.

Sections 807c and 808.3 are amended to state that where a Reliability Standard sets forth specific criteria and procedures for reporting BPS disturbances and events described in that Reliability Standard, Registered Entities subject to the Reliability Standard must report information as required by the Reliability Standard. These sections further state that BPS users, owners and operators shall also provide NERC and Regional Entities with such additional information they request as is necessary to enable them to carry out their responsibilities under these sections. The revisions to these sections are based, in part, on stakeholder comments on the November 7 posting.

Section 807d is revised to delete “some” before “NERC analyses,” as potentially unduly limiting.

Section 807e is amended to provide that NERC will establish, maintain, and revise from time to time based on experience a manual setting forth procedures and protocols for communications and sharing and exchange of information between and among NERC, Regional Entities, governmental authorities, industry organizations, and BPS users, owners and operators, concerning the investigation and analysis of major events.

Section 807f is amended to state that the procedures of Appendix 8 will be applied as appropriate to the circumstances of the major event.

Section 807g is amended to state that NERC will disseminate to the industry findings and recommendations of general applicability from event analyses, “through various means appropriate to the circumstances,” including in accordance with ROP §810. This revision will give NERC greater flexibility in determining and using the most effective means to disseminate information gained from event analyses to the industry.

Section 808.2 has a similar amendment to §807g as described immediately above.

G. Section 1000 – Situation Awareness and Infrastructure Security

Section 1002 has been amended to state NERC’s new policy regarding maintenance and

financial support of existing and potential new reliability tools and support services. NERC will work with industry to identify new tools, collaboratively develop requirements, support development, provide an incubation period, and at the end of that period transition the tool or service to another group or owner for long term operation of the tool or provision of the service. NERC may also develop reliability tools on its own, but will consult with industry concerning the need for the tool prior to development. Tools and services being maintained by NERC as of January 1, 2012 will be reviewed and, as warranted, transitioned to an appropriate industry group or organization.

H. Section 1400 – Amendments to the NERC Rules of Procedure

Section 1401 is revised to provide that requests to amend or repeal the ROP may be submitted by (among other sources) (i) fifty (rather than ten) Members of NERC, which must include Members from at least three membership sectors (rather than “segments”); (ii) a committee (rather than “standing committee”) of NERC, or (iii) an officer of NERC (rather than of “the ERO”). These revisions are necessary to correct inconsistencies with Article XI, section 2 of the NERC Bylaws.

Section 1403 is deleted and its subject matter, which is more appropriately placed in ROP §300, is moved to §320.3.

II. Appendix 2 – Definitions Used in the Rules of Procedure

Appendix 2, *Definitions Used in the Rules of Procedure*, was originally filed with FERC for approval as a new Appendix on November 29, 2011, and has not yet been acted on by FERC. A revised version of Appendix 2 was [will be] filed with FERC for approval on January 25, 2012, to reflect new defined terms and revisions to existing definitions as a result of the proposed revised BES Definition and proposed new BES Exception Procedure (Appendix 5C to the ROP). The further revisions to Appendix 2 now being proposed for approval are the new and revised defined terms resulting from the other revisions to the Rules of Procedure and Appendices in this package. The following defined terms are being added to or revised in Appendix 2 and are shown on the redlined version:

Annual Audit Plan (revised – see discussion under Appendix 4C below)

Certification (revised to reflect elimination of Appendix 6)

Clerk (revised – see discussion under Attachment 2 to Appendix 4C below)

Confirmed Violation (revised – see discussion under Appendix 4C below)

Continuing Education Hour (this definition is being revised by the Personnel Certification Governance Committee to reflect current practice and the PCGC’s System Operator Certification Manual)

Continuing Education Program Provider (revised to reflect elimination of Appendix 6)

Credential Maintenance (deleted because no longer used due to the elimination of Appendix 6)

Director of Compliance (revised – see discussion under Appendix 4C below)

Evidentiary Hearing (new definition – see discussion under Attachment 2 to Appendix 4C below)

Exception Report – (revised – see discussion under Appendix 4C below)

Hearing Body (revised – see discussion under Attachment 2 to Appendix 4C below)

ISO/RTO (new definition – see discussion under Appendix 4C below)

Mitigating Activities (new definition – see discussion under Appendix 4C below)

Mitigation Plan (revised – see discussion under Appendix 4C below)

Notice of Alleged Violation and Proposed Penalty or Sanction (revised – see discussion under Appendix 4C below)

Notice of Confirmed Violation (revised – see discussion under Appendix 4C below)

Notice of Penalty (revised – see discussion under Appendix 4C below)

Participant (revised – see discussion under Attachment 2 to Appendix 4C below)

Possible Violation (revised – see discussion under Appendix 4C below)

Preliminary Screen (revised – see discussion under Appendix 4C below)

Probation (revised to reflect elimination of Appendix 6)

Regional Entity Compliance Monitoring and Enforcement Implementation Plan (revised – see discussion under Appendix 4C below)

Remedial Action Directive (revised – see discussion under Appendix 4C below)

Revoke for Cause (revised to reflect elimination of Appendix 6)

Self-Certification (revised – see discussion under Appendix 4C below)

Self-Report (revised – see discussion under Appendix 4C below)

Spot Check (revised – see discussion under Appendix 4C below)

Termination of Credential (revised to reflect elimination of Appendix 6)

Testimonial Hearing (new definition – see discussion under Attachment 2 to Appendix 4C below)

Type of CE Hours (deleted because no longer used due to the elimination of Appendix 6)

III. Appendix 3C – Procedure for Coordinating Reliability Standards Approvals, Remands, and Directives

NERC is proposing to delete Appendix 3C as no longer necessary. Appendix 3C was originally developed in response to directives in P 286 of the Commission's July 2006 ERO Certification Order, concerning coordination among the applicable North American regulatory bodies with authority over development and approval of reliability standards for the Bulk Power System, specifying that NERC should identify the relevant regulatory bodies and their respective standards approval and remand processes that will be implicated in any remand of a proposed

Reliability Standard, and specify the actual steps to coordinate all of these processing requirements, including those that may be necessary for an expedited deadline to return a remanded proposed Reliability Standard. As NERC has continued, subsequent to 2006, in its efforts to gain recognition as the ERO and adoption of mandatory Reliability Standards in the Canadian provinces and Mexico, the requirements and processes applicable to adoption and revision of Reliability Standards in the non-U.S. jurisdictions have been established by legislation or regulation with those jurisdictions or by memoranda of understanding between NERC and the Applicable Governmental Authorities. As the concerns underlying the directives in P 286 of the ERO Certification Order are now addressed through legislation, regulation, or memoranda of understanding in or with the non-U.S. Applicable Governmental Authorities, Appendix 3C can be deleted.

IV. Appendix 4B – Sanction Guidelines

A principal objective of the proposed amendments to Appendix 4B is to eliminate text that does not relate to the purpose of the Sanction Guidelines, namely, how Penalties and sanctions for violations of Reliability Standards are determined, and to eliminate internally duplicative or repetitive text. The following portions of Appendix 4B are being completely or substantially deleted consistent with this objective: (1) current section 2, Document Scope and Exclusions; (2) current §3.1, Necessary Elements of NERC Compliance Program; (3) current §3.2, Settlement of Compliance Violations, as well as the current sections captioned “Settlement Request” and “Settlement Effect on Continuation of Determination of Penalties, Sanctions, or Remedial Actions;” (4) current §3.7, “No Influence of Penalty, Sanction or Remedial Action Upon Violation Confirmation Process;” and (5) current §6, “Remedial Action” (Remedial Action Directives are covered in §7.0 of Appendix 4C, which is the appropriate Appendix for this topic, and do not need to be covered in Appendix 4B); as well as portions of the texts of other sections.

Text paraphrasing or referring to various statutory provisions and Commission regulations and orders has also been deleted, as these authorities speak for themselves; however, a statement has been added in §1 that “NERC and the Regional Entities will apply the provisions of this document in accordance with applicable statutory provisions and with the regulations, orders, and statements of policy of FERC and other Applicable Governmental Authorities that are applicable to the determination and imposition of Penalties and sanctions for violations of Reliability Standards in the respective jurisdictions.”

Revisions have been made throughout Appendix 4B for more consistent use of terms within the document and as used elsewhere in the ROP, including defined terms, such as Remedial Action Directive, Possible Violation, Alleged Violation, and Registered Entity.

In current §3.2/renumbered §2.1, text is retained specifying that provisions in a settlement agreement regarding Penalties or sanctions can supersede any corresponding Penalties or sanctions that would otherwise be determined pursuant to the Sanction Guidelines.

In renumbered §2.5, “Multiple Violations,” text has been added to state that where Penalties or sanctions for several unrelated violations by a Registered Entity are being determined at the same time, NERC or the Regional Entity may determine and issue a single aggregate Penalty or

sanction bearing a reasonable relationship to the aggregate of the violations. This is consistent with long-standing practice.

Renumbered §2.8 is revised to state that in unique extenuating circumstances “causing or contributing to the violation,” NERC or the Regional Entity may significantly reduce or eliminate Penalties.

Renumbered §2.10, “Economic Choice to Violate,” has been revised to specify that “Economic choice includes economic gain for, or the avoidance of costs to, the violator;” and to make it clear that “NERC or the Regional Entity shall treat economic choice to violate as an aggravating factor when determining a Penalty.”

In renumbered §3.2.2, which discusses how the fact that a violation is a Registered Entity’s first violation of a Requirement will be considered in determining (reducing or excusing) the Base Penalty Amount, text has been added to provide that this relief generally will not be afforded if NERC or the Regional Entity determines the violator has a poor internal compliance program or there is other evidence of a poor culture of compliance (as well as of a poor compliance record, as stated in the existing text). This is consistent with longstanding practice, and also consistent with the increased emphasis NERC is placing in compliance monitoring and enforcement activities on the Registered Entity’s internal compliance program and culture of compliance. The revisions to this section are based in part on a stakeholder comment on the November 7 posting.

In renumbered §3.3, which lists adjustment factors that will be considered in determining the Penalty after the Base Penalty Amount is established, subpart c lists as an adjustment factor disclosure of the violation by the violator through self-reporting, and voluntary Mitigating Activities (which is a broader term than the current “corrective action”) by the violator. In subpart f, “settlement” has been added as an explicit adjustment factor.

In renumbered §3.3.1, which discusses repetitive violations and the violator’s compliance history as an adjustment factor, text has been added to state that in evaluating the violator’s compliance history, NERC or the Regional Entity will take into account previous violations by affiliates of the violator, particularly violations of the same or similar Reliability Standard Requirements, and will evaluate whether any such prior violations reflect recurring conduct by affiliates that are operated by the same corporate entity or whose compliance activities are conducted by the same corporate entity. This addition is consistent with a 2010 guidance order from FERC, and should also promote the sharing of compliance information and lessons learned between/among Registered Entities that are corporate affiliates.

Also, in renumbered §3.3.1, the term “violation reset time period” has been changed to “reset period or reset time frame,” as these are the terms used in several Reliability Standards.

Renumbered §3.3.3, retitled “Disclosure of the Violation Through Self-reporting and Voluntary Mitigating Activities by the Violator,” has been revised consistent with subpart c of §3.3 as described above. In addition, the following text has been added: “If a Self-Report or a Self-Certification submitted by the violator accurately identifies a violation of a Reliability Standard,

an identification of the same violation in a subsequent Compliance Audit or Spot Check will not subject the violator to an escalated Penalty as a result of the Compliance Audit process unless the severity of the violation is found to be greater than reported by the violator in the Self-Report or Self-Certification.” A similar statement is currently contained in §3.0 of Appendix 4C, but it is being moved to Appendix 4B as it more appropriately relates to Penalty determinations than to compliance monitoring processes.

Renumbered §3.3.4, retitled “Degree and Quality of Cooperation,” has been revised consistent with subpart d of §3.3 as described above.

Renumbered §3.3.5, retitled “Presence and Quality of the Violator’s Internal Compliance Program,” has been revised to add reference to “other indicators of the violator’s culture of compliance” as an adjustment factor.

Section 3.3.6, “Settlement,” has been added consistent with the addition of subpart f in §3.3 as described above, as a mitigating factor in determining the Penalty.

Renumbered §3.3.7, retitled “Violation Concealment and Responsiveness,” has been revised to state that NERC or the Regional Entity shall consider an increase to the Penalty if NERC or the Regional Entity determines, based on its review of the facts, that the violator resisted or impeded the discovery and review of a violation. The text has been revised to state that the presumption in a case where the violator concealed or attempted to conceal the violation is to double the Penalty, but also to state that NERC or the Regional Entity will determine the actual increase to the Penalty based on the particular facts and circumstances of the violation. The latter revision is based in part on stakeholder comments on the November 7 posting.

Renumbered §3.3.8 has been revised to state that the presumption in a case where the violator committed an intentional violation is to double the Penalty otherwise suggested, but that NERC or the Regional Entity will determine the actual increase to the Penalty based on the facts and circumstances of each case. This revision is based in part on stakeholder comments on the November 7 posting.

In numerous other areas of Appendix 4B, revisions have been made for the purpose of simplifying the text. The text of current Appendix 4B is extremely elaborate and the simplification of the text will make the document easier to use for all participants. As part of this effort, in numerous places text has been revised to state that “NERC and the Regional Entity will do X,” rather than the current text structure of “X will occur” or “X will be taken into account.”

V. Appendix 4C – Compliance Monitoring and Enforcement Program

Throughout Appendix 4C, “Regional Entity” has been revised to “Compliance Enforcement Authority” (“CEA” in this summary) in numerous places. In addition, since sections have been added and deleted and, as a result, other sections have been renumbered in this Appendix, there are revisions throughout the Appendix to change cross-references.

A. Section 1.0 – Introduction

Section 1.1.2 – Annual Audit Plan – reference to including “Compliance Audit Participant requirements” in the Annual Audit Plan has been deleted.

Section 1.1.9 – Confirmed Violation – the definition has been expanded to more comprehensively capture the circumstances that constitute a “Confirmed Violation,” based on experience, and will include execution of a settlement agreement. Revisions have been made to this definition from the November 7 posting based in part on stakeholder comments.

Section 1.12 – ISO/RTO – added new definition that is used in new §5.11 (described below).

Section 1.1.13 – Mitigating Activities – this new definition has been added to encompass actions taken by a Registered Entity to correct or prevent recurrence of a noncompliance, whether or not the actions are embodied in a Mitigation Plan. Under some enforcement resolutions, submission, acceptance and approval of a Mitigation Plan may not be required, but the Registered Entity is required to implement Mitigating Activities for the noncompliance.

Section 1.1.14 (renumbered) – Mitigation Plan – Text not necessary to define the term is being deleted from the definition.

Section 1.1.17 (renumbered) – The defined term “Notice of Alleged Violation” is changed to “Notice of Alleged Violation and Proposed Penalty or Sanction,” which is the term more commonly used; Notices of Alleged Violation typically include a proposed Penalty or sanction.

Section 1.1.19 (renumbered) – Notice of Confirmed Violation – text is deleted that is not necessary to define “Notice of Confirmed Violation.” The subject matter of the deleted text is covered (more appropriately) in the definition of “Confirmed Violation.”

Section 1.1.20 (renumbered) – Notice of Penalty – added the phrase Notice “or other notification” of Confirmed Violation to reflect that Regional Entities may sometimes provide notice of a Confirmed Violation through a means of notification other than a Notice of Confirmed Violation.

Section 1.1.23 (renumbered) – Possible Violation – text is deleted that is not necessary to define the term, and potentially inaccurate (a Possible Violation could be identified by a means other than one of the compliance monitoring and enforcement processes enumerated in Section 3.0).

Section 1.1.24 (renumbered) – Preliminary Screen – an additional component is added to the determinations to be made in the Preliminary Screen: “if known, the potential noncompliance is not a duplicate of a Possible Violation or Alleged Violation which is currently being processed.”

Section 1.1.25 (renumbered) – Regional Implementation Plan – revised to reflect that the Regional Implementation Plans for a year are now to be submitted to NERC by October 1 (rather than November 1) of the preceding year.

Section 1.1.27 (renumbered) – Remedial Action Directive – revised to state that a Remedial Action Directive is immediately necessary to protect the reliability of the Bulk Power System from an imminent or actual threat.

Section 1.1.29 (renumbered) – Self-Certification – Definition is expanded to reflect that additional possible responses to a Self-Certification request will be allowed, *i.e.*, that the Registered Entity does not own Facilities that are subject to the Reliability Standard Requirement, or that the Reliability Standard Requirement is not applicable to the Registered Entity.

Section 1.1.30 (renumbered) – Self-Report – (1) The defined term is changed from Self-Reporting to Self-Report (this revision is made throughout Appendix 4C). (2) Definition is revised to provide that the Self-Report may state that the Registered Entity believes it has, or may have, violated a Reliability Standard. This will enable a Registered Entity to submit a Self-Report without having to first conclude that it has violated a Reliability Standard. (For clarification, and in response to stakeholder comments, this change is *not* intended to require a Registered Entity to submit a Spot Check whenever it believes it may have, but is not certain, that it has violated a Reliability Standard.) (3) The provision that the Self-Report should state the actions that have been taken or will be taken to resolve the violation is deleted; this requirement could delay submission of a Self-Report while the Registered Entity determines what actions are to be taken. NERC prefers that the Self-Report be submitted promptly following discovery of the noncompliance.

Section 1.1.31 (renumbered) – Spot Check – (1) The defined term is changed from Spot Checking to Spot Check (this revision is made throughout the document). (2) In the third basis stated in the definition on which a Spot Check may be initiated, reference to “events, as described in the Reliability Standard” is deleted and “risk-based assessments” is added. The addition is consistent with NERC’s developing risk-based assessment approach to determining the frequency with which to conduct compliance monitoring activities.

B. Section 2.0 – Identification of Organizations Responsible for Complying with Reliability Standards

Section 2.0 is revised to specify that a Registered Entity must inform NERC or the applicable Regional Entity promptly of changes to the Registered Entity’s compliance information “including planned or completed changes in ownership of Bulk Power System Facilities, Registration status, address or other contact information, and name of designated compliance contact.” Experience has indicated that NERC and the Regional Entities are not receiving timely notification of such information, which may affect Registration status, identification of the correct/current Registered Entity, or the ability to contact the Registered Entity.

Detailed text concerning disclosure of confidential compliance information to FERC and other Applicable Governmental Authorities has been deleted here (and in other sections where it was repeated), and replaced with: “Any such provision of information to FERC or to another Applicable Governmental Authority shall be in accordance with Section 8.0, Reporting and Disclosure.” The complete text of this provision will now appear in one section (Section 8.0).

C. Section 3.0 – Compliance Monitoring Processes

In the title of Section 3.0, reference to “Enforcement” is deleted; and in the first sentence of the section, “assess and enforce” is deleted. Section 3.0 encompasses only compliance monitoring processes, while Section 5.0 encompasses enforcement processes.

Throughout Section 3.0, footnotes stating that a particular compliance process normally completes within a specified time period have been deleted; the time required to complete individual compliance processes has varied widely based on particular facts and circumstances.

Text has been added to state that if a potential noncompliance is identified through one of the compliance monitoring processes described in Section 3.0 or through another means, the CEA will conduct a Preliminary Screen of the information in accordance with Section 3.8; if the Preliminary Screen results in an affirmative determination with respect to the Preliminary Screen criteria, a Possible Violation exists and the CEA will proceed in accordance with Section 5.0, Enforcement Actions.

Text describing the enforcement actions that may be taken by the CEA is deleted, as this topic is covered in Section 5.0, not in this section.

Text is added to state that the CEA has authority to collect Documents, data and information in the manner it deems most appropriate, including requesting that copies be made of Documents, data and information and removing those copies from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain. This added text was revised, in part, based on stakeholder comments on the November 7 posting.

This section is revised to state that a Registered Entity that believes a request for Documents, data or information is unreasonable may request a determination from the NERC general counsel (changed from the NERC “compliance program officer”).

Section 3.1 – Compliance Audits – Revised to state that Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, are examples of professional auditing standards on which Compliance Audit processes for Compliance Audits in the U.S. should be based.

Section 3.1.1 – Compliance Audit Process Steps – (1) The first step is revised to state that the Annual Audit Plan will be posted, rather than distributed to all Compliance Audit Participants. (2) The second step is revised to provide that the CEA will notify the Registered Entity of the Compliance Audit and the Reliability Standards to be evaluated, 90 days (rather than 2 months) prior to commencement of a regularly scheduled Compliance Audit, (thereby providing additional notice to the Registered Entity). (3) The third step is revised to specify that the

required information requested by the CEA is to be provided by the Registered Entity by the Required Date. (4) The fourth step is revised to delete the statement that the Compliance Audit team will review the Registered Entity's submitted information "prior to performing the Compliance Audit" – the submitted information may be reviewed before or during the on-site audit activities. Text stating that the Compliance Audit team "follows NERC Compliance Audit guidelines in the implementation of the Compliance Audit" is also deleted here, as this statement is applicable to all the process steps. (5) The fifth step is revised to state that the Compliance Audit report will be completed in accordance with Section 3.1.6, which addresses the form and contents of the audit report. (6) A step has been added that if the Compliance Audit team identifies evidence of a potential noncompliance, the CEA will conduct a Preliminary Screen in accordance with Section 3.0. (7) Other process steps describing enforcement actions are deleted here, since enforcement processes are covered in Section 5.0.

Section 3.1.2 – Compliance Enforcement Authority Annual Audit Plan and Schedule – (1) Revised to state that Registered Entities scheduled for Compliance Audits in a year will be notified by October 1 of the preceding year (rather than by January 1 of the year in which the audit is to be conducted). (2) Text is changed to state that the CEA will give due consideration to schedule changes requested by a Registered Entity "for reasonable cause" (rather than "to avoid unnecessary burden") which will allow a broader basis for justification of schedule change requests.

Section 3.1.3 – Frequency of Compliance Audits – The last sentence is deleted because the subject of objections to the composition of the Compliance Audit team is covered in Section 3.1.5.4.

Section 3.1.4.1 – Reliability Standards – Revised to clarify that a Compliance Audit may include other Reliability Standards applicable to the Registered Entity, that are not identified in the NERC Implementation Plan, whether or not the other Reliability Standards are identified in the Regional Entity's Implementation Plan.

Section 3.1.4.2 – Period Covered – (1) Revised to emphasize that the Registered Entity's data and information must show compliance with the Reliability Standards being audited for the entire period covered by the Compliance Audit. (2) Text is added to state that the CEA will indicate the beginning and End Date of the audit period in its notice of the Compliance Audit. (3) Revised to state that the start of the audit period will be the End Date of the previous Compliance Audit (which may be a different date than the last day of the previous Compliance Audit). (4) The existing second sentence of this section, concerning modification of the audit period, is deleted and replaced with a more straightforward sentence ("The Compliance Enforcement Authority may modify the beginning date of the audit period for any given Reliability Standard requirement based on an intervening compliance monitoring process."). (5) Text is revised to state that the End Date should be a specified date prior to the scheduled start of the Compliance Audit, such as the date of the notification of the Compliance Audit issued by the CEA or the date that is thirty days following the date of the notification. This revision is being made in response to stakeholder comments that making the End Date the last day of the Compliance Audit made it difficult for the Registered Entity to compile and provide evidence of compliance for the entire audit period through the End Date. (6) In conjunction with the

preceding revision, however, text is added to specify that if the Compliance Audit team discovers a potential noncompliance occurring subsequent to the End Date, the potential noncompliance will be subject to a Preliminary Screen pursuant to Section 3.8 (which may then result in the potential noncompliance becoming a Possible Violation and being entered into the enforcement process).

Section 3.1.4.3 – Review of Mitigating Activities – The term “Mitigation Plan” is replaced with “Mitigating Activities.” As described earlier in this Summary, “Mitigating Activities” is a broader term, reflecting that actions taken by a Registered Entity to correct and prevent recurrence of a noncompliance, while they are accepted by the CEA, are not always memorialized in a formal Mitigation Plan.

Section 3.1.5.1 – Composition of Compliance Audit Teams – (1) Revised to state that the audit team will be comprised of members who the CEA has determined to have the requisite knowledge, training, and skills to conduct the Compliance Audit. (2) Revised to clarify who may be included on Compliance Audit teams, in addition to staff of the Regional Entity: (i) contractors and industry subject matter experts, (ii) NERC staff members (which may include contractors to NERC), (iii) compliance staff members of other Regional Entities, and (iv) representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity.

Section 3.1.5.2 – Requirements for Compliance Audit Team Members – (1) First bullet is revised to state that audit team members must be free of conflicts of interest “in accordance with the Compliance Enforcement Authority policies.” This revision is based in part on a stakeholder comment on the November 7 posting. (2) Fourth bullet is revised to eliminate the requirement that the CEA provide to the Registered Entity copies of the confidentiality agreements or acknowledgements executed by the Compliance Audit team members; instead, the CEA will provide confirmation to the Registered Entity that all Compliance Audit team members have executed confidentiality agreements or acknowledgements.

Section 3.1.5.3 – Compliance Audit Observers and Other Attendees – Revised to clarify the distinctions between Compliance Audit team members (§3.1.5.1), observers, and attendees. The first paragraph is amended to specify that the following may participate as observers: NERC staff; other members of the Regional Entity’s compliance staff; with the Regional Entity’s permission, compliance staff members of other Regional Entities; and representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity. A sentence is also added, in response to stakeholder comments on the November 7 posting, stating that any members of NERC staff, Regional Entity Compliance Staff, or Compliance Staffs of other Regional Entities, or representatives of FERC or other Applicable Governmental Authorities who are not Compliance Audit team members identified pursuant to Section 3.1.1, are observers.

The second paragraph, which is not being revised (and was approved by the Commission in an order issued October 7, 2011) states who may be attendees at the audit. A new third paragraph has been added to state that “Compliance Audit observers and attendees are not Compliance

Audit team members and do not participate in conducting the Compliance Audit or in making Compliance Audit findings and determinations.”

Section 3.1.5.4 – Registered Entity Objections to Compliance Audit Team – Revisions have been made to the third paragraph to further clarify that a Registered Entity may object to participation on the Compliance Audit team of individual NERC or FERC staff members on grounds such as conflicts of interest as specified in this section, but may not object generally to participation on the Compliance Audit team by NERC or FERC staff members. NERC (and numerous stakeholders who commented on this topic) believe that while a Registered Entity should not be able to object to participation generally by NERC staff or FERC staff on a Compliance Audit team (as FERC has indicated in prior orders), a Registered Entity should be allowed to object to the inclusion of a particular individual NERC staff or FERC staff member on the audit team based on conflict of interest, bias or similar specific grounds (*e.g.*, the NERC staff member or FERC staff member is a former employee of the Registered Entity).

Section 3.1.6 – Compliance Audit Reports – (1) In the second line of the first paragraph, “evidence of possible noncompliance” is changed to “evidence of potential noncompliance” to avoid confusion with the defined term “Possible Violation.” (2) In the first paragraph, the phrase “other Mitigating Activities” is added to “Mitigation Plan,” as not all actions taken by Registered Entities to correct a noncompliance and prevent recurrence are memorialized in formal Mitigation Plans. (3) The first paragraph is also revised to state that the audit report may also state areas of concern and recommendations identified by the Compliance Audit team (rather than specifying that any recommendations of the audit team be provided in a separate document). Based on experience, NERC believes it will be more effective and efficient, as well as administratively simpler, to include such concerns and recommendations emanating from the Compliance Audit in the audit report along with the formal audit findings. This will also facilitate tracking the concerns and recommendations and the Registered Entity’s actions to address them. Experience has shown that including recommendations in a separate report from the audit report has made tracking the recommendations problematic. (4) In the second paragraph, the first sentence is revised to specify that the CEA will provide the final audit report to the Registered Entity on or before the date the report is provided to NERC. (5) Text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text on this topic is provided. (6) In the third paragraph, a sentence is added that NERC will not publicly post the final Compliance Audit report for at least five business days following receipt. (7) Also in the third paragraph, the third alternative condition that must be satisfied before the Compliance Audit report is released to the public is revised to “the Registered Entity executes a settlement agreement,” with the existing reference to “admits to a violation” deleted (as it is covered in condition (ii)).

Section 3.2 – Self-Certification – The second paragraph of this section is deleted because its substance has been moved to Appendix 4B, *Sanction Guidelines*, where it is more appropriately placed.

Section 3.2.1 – Self-Certification Process Steps – (1) The first step is revised to specify that the posted reporting schedule should include the applicable reporting periods. (2) The first step is

also revised to specify that NERC, along with the CEA, will be responsible to ensure that the appropriate Reliability Standards, compliance procedures and required submittal forms are maintained and available (which may be through a means other than electronic). (3) Consistent with the revised definition of Self-Certification (§1.1.29), the third step is revised to list the four possible responses in a Self-Certification. (4) The fourth step is revised to state that, at a minimum, the CEA will review Self-Certifications of non-compliance and Self-Certifications stating that the Registered Entity does not own Facilities that are subject to the Reliability Standard Requirement or that the Requirement is not applicable to the Registered Entity. (5) The fifth step is revised to state that if the CEA identifies a potential noncompliance, the CEA conducts a Preliminary Screen. (6) A paragraph is added stating that receipt of a Self-Certification by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, subject to, or not subject to, the Reliability Standard requirement. This additional text, which was revised in response to a stakeholder comment on the November 7 posting, is intended to negate the assumption that if a CEA makes no further response to a Registered Entity concerning a Self-Certification, the CEA has determined that the Registered Entity is compliant with the Reliability Standard Requirement.

Section 3.3 – Spot Check – (1) Revised to state that a Spot Check may be initiated at the discretion of the CEA or as directed by NERC.

Section 3.3.1 – Spot Check Process Steps – (1) The first step is revised to state that a “notification letter” will be issued by the CEA to the Registered Entity, which will include the scope of the Spot Check including the Reliability Standard Requirements that will be covered. (2) The second step is revised to state that the notification package will include the names and employment histories of the persons who will perform the Spot Check. It is also revised to state that the CEA shall provide confirmation to the Registered Entity that the Spot Check team members have executed confidentiality agreements or acknowledgements. The second step is also revised to state that the Registered Entity may object to inclusion of any individual on the Spot Check team on the grounds specified in §3.1.5.4, but that nothing in §3.1 shall be read to limit the participation generally of NERC staff on a Spot Check team or to limit the participation generally of FERC staff in a Spot Check of a Registered Entity, or involving a portion of the Bulk Power System, over which FERC has jurisdiction. This provision was revised in part based on stakeholder comments on the November 7 posting. (3) The fourth step is revised to specify that the Registered Entity must provide the required information to the CEA by the Required Date specified in the request. (4) A new sixth step is added to state that if the Spot Check team’s review of the information submitted indicates a potential noncompliance, the CEA will conduct a Preliminary Screen. (5) The seventh step is revised to state that the Spot Check team will prepare a draft Spot Check report and the Registered Entity will be given ten business days to comment on it. (6) The eighth step is revised to provide that the Spot Check team will consider any corrections based on the Registered Entity’s comments, finalize the Spot Check report and provide it to the Registered Entity and to NERC. (7) In the ninth step, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text on this topic is provided. (8) The step stating that the CEA will send the Registered Entity a Notice of Possible Violation is deleted, as that step will now be covered in Section 5.0, Enforcement Actions.

Section 3.4 – Compliance Investigations – In two places, “possible violation” is replaced with “potential noncompliance” to avoid confusion with the defined term “Possible Violation.”

Section 3.4.1 – Compliance Investigation Process Steps – (1) The first step is revised to provide that the CEA will take certain actions within three (rather than within two) business days of the decision to initiate a Compliance Investigation. (2) The second step is revised to specify that NERC will assign a staff member to act as an observer or Compliance Investigation team member, as well as serve as a single point of contact, and will notify the Registered Entity as to whether the NERC staff member is acting as an observer or as a team member. This provision was revised in part based on a stakeholder comment on the November 7, 2011 posting. (3) The second step is also revised to provide that within three (rather than two) business days after receiving notice of the decision to initiate a Compliance Investigation, NERC will notify FERC and other Applicable Governmental Authorities. In addition, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text is provided. (4) Similar to revisions to the process steps for other compliance monitoring processes as described earlier in this Summary, text is added to the fourth step to clarify that the Registered Entity may object to participation on the Compliance Investigation team by individual staff members of NERC, FERC or another Applicable Governmental Authority, but may not object generally to participation in the Compliance Investigation by the staffs of NERC, FERC, or other Applicable Governmental Authorities having reliability jurisdiction over the Registered Entity. (5) The fifth step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (6) The ninth step is revised to provide that the CEA may review any Mitigating Activities (in addition to Mitigation Plans), since not all actions taken by a Registered Entity to correct a noncompliance and prevent recurrence are memorialized in a formal Mitigation Plan. (7) The ninth step is revised to provide that if the CEA identifies a potential noncompliance, it will conduct a Preliminary Screen. (8) In the tenth step, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text is provided.

Section 3.5 – Self-Reports – A sentence is added stating that if possible, and without delaying the Self-Report, a Self-Report may include the actions that have been taken or will be taken to resolve the violation. This addition is consistent with the change to the definition of Self Report (§1.1.30).

Section 3.5.1 – Self-Report Process Steps – (1) The first step is revised to delete reference to the CEA’s website; the CEA may make the Self-Report submittal forms available through other means. (2) The step stating that the CEA will notify the Registered Entity that the CEA has completed its evaluation of the Self-Report is eliminated. (3) The fourth step is revised to provide that the CEA will conduct a Preliminary Screen of the Self-Report information.

Section 3.6.1 – Periodic Data Submittals Process Steps – (1) The first step is revised to delete reference to the CEA’s website; the CEA may make the submittal forms available through other means. (2) The third step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (3) The fifth

step is revised to provide that if the CEA's review of the data submittal indicates a potential noncompliance, the CEA will perform a Preliminary Screen. (4) A paragraph is added at the end of this section stating that receipt of a Periodic Data Submittal by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, subject to, or not subject to, the Reliability Standard Requirement. This additional text is intended to negate the assumption that if a CEA makes no further response to a Registered Entity concerning a Periodic Data Submittal, the CEA has determined that the Registered Entity is compliant with the Reliability Standard Requirement. This provision was revised based on a stakeholder comment on the November 7 posting.

Section 3.7 – Exception Reporting – This section is deleted and Exception Reporting will no longer be considered one of the compliance monitoring processes, as Exception Reports are triggered by Requirements of particular Reliability Standards, and not on the initiative of the CEA. However, an Exception Report containing evidence of a potential noncompliance may still result in performance of a Preliminary Screen and initiation of an enforcement action (see revised Section 2.0).

Section 3.7 (as renumbered) – Complaints – In the first paragraph, text stating that NERC will review any Complaint “that is related to a Regional Entity or its affiliates, divisions, committees or subordinate structures” is deleted. Regional Entities as such are not subject to Reliability Standards; and for those Regional Entities that perform registered functions (FRCC, SPP and WECC), there are agreements in place by which other Regional Entities, not NERC, perform the CEA responsibilities with respect to those registered functions.

Section 3.8 – Preliminary Screen – (1) The provisions relating to performance of Preliminary Screens are relocated to Section 3.8 from Section 5.1, as the Preliminary Screen is considered a step in the compliance monitoring process (Section 3.0), rather than in the compliance enforcement process (Section 5.0). (2) Section 3.8 states that the Preliminary Screen will be conducted within five business days after the CEA identifies the potential noncompliance, except that (i) if the CEA identifies the potential noncompliance during a Compliance Audit, the Preliminary Screen will be conducted immediately following the exit briefing of the Registered Entity, and (ii) if the CEA identifies the potential noncompliance during a Compliance Investigation, the Preliminary Screen shall be conducted immediately after the Registered Entity is first notified of the potential noncompliance identified by the Compliance Investigation. The two exceptions are necessary so that the Registered Entity does not receive a Notice of Possible Violation before being notified that the Compliance Audit or Compliance Investigation has found a potential noncompliance. (3) Consistent with the change in definition (§1.1.24), the Preliminary Screen will now include a determination of whether, if known, the potential noncompliance is not a duplication of a Possible Violation or Alleged Violation that is currently being processed. (4) The revised section provides that if the Preliminary Screen results in an affirmative determination with respect to the three criteria, a Possible Violation exists and the CEA shall proceed in accordance with Section 5.0.

D. Section 4.0 – Annual Implementation Plans

Section 4.1 – NERC Compliance Monitoring and Enforcement Program Implementation Plans –

(1) Revised to provide that the NERC Implementation Plan will be provided to the Regions by on or about September 1 (rather than October 1) of the prior year. (2) Revised to state that NERC may update and revise its Implementation Plan during the course of the year. (3) Revised to state that Regional Entities have discretion to make modifications to the NERC Implementation Plan with respect to individual Registered Entities.

Section 4.2 – Regional Entity Implementation Plan – (1) Consistent with the revised schedule in §4.1, revised to provide that the Regional Implementation Plans will be submitted on or about October 1 (rather than November 1) of the previous year. (2) Revised to state that a Regional Entity may update and revise its Implementation Plan during the year as necessary, with NERC approval or as directed by NERC. (3) Revised to state that Regional Entities have discretion to make modifications to their Implementation Plans with respect to individual Registered Entities.

E. Section 5.0 – Enforcement Actions

In the first paragraph of §5.0, “remedial actions” is replaced with the new defined term “Mitigating Activities,” to avoid possible confusion with the defined term Remedial Action Directive.

A statement is added that imposition and acceptance of Penalties and sanctions shall not be considered an acceptable alternative to a Registered Entity’s continuing obligations to comply with Reliability Standards.

Text is added to state that the CEA has authority to collect Documents, data and information in the manner it deems most appropriate, including requesting that copies be made of Documents, data and information and removing those copies from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain. This provision has been revised based on stakeholder comments to the November 7 posting.

This section is revised to state that a Registered Entity that believes a request for Documents, data or information is unreasonable may request a determination from the NERC general counsel (changed from the NERC “compliance program officer”).

A statement is added that under the circumstances presented by some Possible Violations, Alleged Violations or Confirmed Violations, absolute adherence to the enforcement process in §5.0, to the exclusion of other approaches, may not be the most appropriate, efficient or desirable means by which to achieve the overall objectives of the Compliance Program for NERC, the CEA and the Registered Entity. In such circumstances, other approaches may be considered and employed, but the Registered Entity is entitled to object to the use of any such other approach. A similar statement is found in current Appendix 4B, but is being deleted there, as it is more

appropriately placed in Appendix 4C. This provision was revised in part in response to a stakeholder comment on the November 7 posting.

Section 5.1 – Preliminary Screen – This section is deleted and the topic is now covered in Section 3.8 (as discussed above).

Section 5.1 – Notice of Possible Violation – (1) Revised to state that the Notice of Possible Violation will state the dates involved in the Possible Violation “if known.” (2) Revised to state that the CEA will report the Possible Violation to NERC (rather than entering it into the compliance reporting and tracking system – it is not necessary to specify the particular reporting mechanism to be used). (3) Revised to state that NERC will report the Possible Violation to other Applicable Governmental Authorities, as applicable (in addition to FERC), in accordance with §8.0, Reporting and Disclosure.

Section 5.3 – Notification to Registered Entity of Alleged Violation – (1) Revised to provide that the CEA will notify the Registered Entity of the determination of an Alleged Violation, even if the CEA and the Registered Entity have entered into settlement negotiations. (2) Revised to state that the CEA will issue a Notice of Alleged Violation and Proposed Penalty or Sanction “or similar notification,” to recognize that some Registered Entities’ processes may involve providing notification through a different means than a Notice of Alleged Violation and Proposed Penalty or Sanction. Similar revisions are made in other sections. (3) Revised to state that the notification of Alleged Violation will be issued by e-mail and will be effective as of the date of the electronic mail message; this will promote consistency in the methods of delivering notification. Also, the requirements that the notification be signed by an officer or designee of the CEA, and be sent to the CEO of the Registered Entity, are deleted; the notification will be sent to the Registered Entity’s compliance contact. (4) Revised to state that the CEA will report the Alleged Violation to NERC (rather than entering it into the compliance reporting and tracking system – it is not necessary to specify the particular reporting mechanism to be used). (5) In item (v) of the list of contents of a notification of Alleged Violation, “or other Mitigating Activities” is added after “implement a Mitigation Plan,” to reflect that some actions taken by Registered Entities to correct and prevent recurrence of a noncompliance, although they are approved by the CEA, are not memorialized in a formal Mitigation Plan. (6) In item (vii) of the list of contents of a notification of Alleged Violation, “full hearing procedure” is changed to “general hearing procedure” consistent with a revision in the Hearing Procedures. (7) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided. (8) The last paragraph of this section is deleted, as completion of the enforcement action and issuance of a Notice of Confirmed Violation is covered in later sections.

Section 5.4 – Registered Entity Response – (1) Revised to add agreement by the Registered Entity with the notification of Alleged Violation as establishing acceptance of the CEA’s determination of violation and Penalty or sanction. (2) Revised to provide that the 30 day period runs from the date of notification of Alleged Violation by electronic mail (consistent with a revision to §5.3, above). (3) Revised to state that the CEA will issue a Notice of Confirmed Violation “or similar notification,” to recognize that some Registered Entities’ processes may involve providing notification through a different means than a Notice of Confirmed Violation.

Similar revisions are made in other sections. (4) Revised to state that the CEA will report the Confirmed Violation to NERC (rather than entering it into the compliance reporting and tracking system – it is not necessary to specify the particular reporting mechanism to be used). (5) Revised to state that the Registered Entity will be allowed to provide a written explanatory statement to accompany the filing with FERC and public posting of the Confirmed Violation. (6) Revised to state that if the Registered Entity contests the Alleged Violation or proposed Penalty or sanction, it must submit a response within 30 days following the date of notification of the Alleged Violation. (7) Reference to issuing a Notice of Confirmed Violation by the CEA is deleted, as this topic is covered in a subsequent section.

Section 5.6 – Settlement Process – (1) Revised to provide that the Registered Entity or the CEA may terminate settlement negotiations at any time. Either party should have discretion to terminate settlement negotiations if they are not progressing in a productive manner. (2) Revised to specify that when the CEA has agreed to engage in settlement negotiations, the running of the time period specified in Section 5.4 for the Registered Entity to respond to the notification of Alleged Violation pursuant to §5.4 is suspended until settlement negotiations are concluded or terminate. This provision was revised based on stakeholder comments on the November 7 posting. (3) Revised to state that the CEA and the Registered Entity will execute a settlement agreement (rather than that the CEA will issue a letter) setting forth the final settlement terms. (4) Revised to state that within five business days after NERC advises the CEA of NERC's approval, rejection or proposed revisions to a settlement agreement, the CEA will notify the Registered Entity. Notification to the Registered Entity should come from the CEA, not from NERC which has not been in negotiation or other contact with the Registered Entity. (5) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided. (6) Text is added to clarify that in the public posting of the settlement agreement or of the terms of the settlement, any Critical Energy Infrastructure Information or Confidential Information will be redacted.

Section 5.7 – NERC Appeal Process – Revised to provide that the CEA, as well as the Regional Entity, may appeal the decision of the Regional Entity Hearing Body, in accordance with amended Section 409 of the ROP.

Section 5.8 – Notification of a Confirmed Violation – Revised to (i) add the word “or other notification” to “Notice of Confirmed Violation,” consistent with other changes; and (ii) delete references to NERC receiving information from the CEA “through the NERC compliance tracking and reporting system,” consistent with other changes.

Section 5.9 – Notice of Penalty – (1) Revised to provide that the Registered Entity shall be informed that the Notice of Penalty is pending public filing at least five business days prior to the public filing and posting. (2) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided.

Section 5.10 – Completion of Enforcement Action – The title of this section is revised from “Closure of Enforcement Action.”

Section 5.11 – Special Procedures for an Enforcement Action Against an ISO/RTO Where the Monetary Penalty May be Allocated by the ISO/RTO to Other Entities – This is a new section to establish procedures pursuant to which (1) an ISO/RTO can request the CEA to make a determination, during the enforcement process for a Notice of Possible Violation issued to the ISO/RTO, that one or more specified other entities were responsible, in whole or on part, for actions or omissions that caused or contributed to the violation (if confirmed), and (2) the specified other entity(ies) can request and be allowed to participate in the enforcement process. Section 5.11 has been substantially revised and shortened from the version included in the November 7 posting, based on stakeholder comments on the November 7 posting.

Section 5.11.1 specifies that in order to request the CEA to make a determination in an enforcement action that a specified other entity(ies) was responsible, in whole or in part, for actions or omissions that caused or contributed to a violation (if confirmed) of a Reliability Standard for which the ISO/RTO has received a Notice of Possible Violation, the ISO/RTO shall, no later than five business days after receiving the Notice of Possible Violation (i) submit a written request to the CEA and (ii) issue a notice to the specified other entity(ies). Section 5.11.1 contains the content and delivery requirements for the ISO/RTO's request and notice. A provision has been added (see footnote 2) allowing the ISO/RTO to make a separate filing with the CEA setting forth the basis of the ISO/RTO's authority to allocate Penalties to other entities; in a subsequent request for a determination regarding a specific other entity, the ISO/RTO can simply refer to the earlier filing, state that the explanation remains valid, and briefly explain why the specified other entity is covered by that authority.

Section 5.11.2 states that if the ISO/RTO's written request for a determinations shows that the ISO/RTO has authority to allocate all or a portion of any monetary Penalty to the other entity(ies), and that the other entity(ies) received a timely notice from the ISO/RTO in accordance with §5.11.1, the CEA will contact the other entity(ies) to provide further information concerning their right to participate in the enforcement process for the Notice of Possible Violation. In order to participate in the enforcement process, the other entity(ies) will be required to submit a written request to participate and to execute a nondisclosure agreement. The specified other entity(ies) must request to participate in the enforcement process prior to, as applicable (i) the date of execution of a settlement agreement between the CEA and the ISO/RTO, and (ii) the date that the CEA issues a Notice of Confirmed Violation to the ISO/RTO. Upon receiving notice from the CEA that it is allowed to participate in the enforcement action, the specified other entity may participate in the same manner as the ISO/RTO and shall be subject to all applicable requirements and deadlines specified in the Compliance Program.

Section 5.11.4 provides that, assuming the requirements described above have been met, and if the enforcement action is not resolved by a settlement agreement stating whether or not the specified other entity(ies) was responsible, in whole or in part, for actions or omissions that caused or contributed to the violation identified in the Notice of Possible Violation, the CEA shall make, and include in its proposed Notice of Penalty, its determination of whether or not the specified other entity(ies) were responsible, in whole or in part, for actions or omissions that caused or contributed to the violation.

Section 5.11.5 provides that if an ISO/RTO's tariffs, agreement or other relevant governance documents establish procedures, that have been approved by FERC, that allow members of the ISO/RTO to directly assign to the ISO/RTO monetary Penalties imposed on the ISO/RTO member(s) for violations of Reliability Standards, then the ISO/RTO members may follow the same requirements of §5.11.1 and 5.11.2 as are applicable to an ISO/RTO under those sections, and the ISO/RTO shall be afforded the same rights to participate in the enforcement action as a specified other entity under §5.11.1, 5.11.2 and 5.11.4, subject to the same requirements and conditions specified in those sections.

Section 5.11.6 specifies that the ISO/RTO shall be obligated and responsible to pay any monetary Penalty imposed by the CEA on the ISO/RTO for violation of a Reliability Standard, in accordance with §5.10 of Appendix 4C, (i) regardless of whether the CEA has made a determination that a specified other entity was responsible, in whole or in part, for actions or omissions that caused or contributed to the violation, (ii) without regard to the timing of any separate proceeding(s) in which the ISO/RTO seeks to allocate some or all of the monetary Penalty to a specified other entity(ies), and (iii) without regard to whether or when the ISO/RTO receives payment from the specified other entity(ies). This provision obligates the ISO/RTO to pay any Penalty imposed on it for violation of a Reliability Standard within the time period specified in §5.10, without regard to whether or when the ISO/RTO has received payment from any other entity to which the ISO/RTO is seeking to allocate all or a portion of the Penalty.

F. Section 6.0 – Mitigation of Violations of Reliability Standards

Text is added to state that the CEA has authority to collect Documents, data and information in the manner it deems most appropriate, including requesting copies to be made of Documents, data and information and removing those copies from the Registered Entity's location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain. This provision was revised based on stakeholder comments on the November 7 posting.

This section is revised to state that a Registered Entity that believes a request for Documents, data or information is unreasonable may request a determination from the NERC general counsel (changed from the NERC "compliance program officer").

Section 6.2 – Contents of Mitigation Plans – Revised to eliminate the requirement that the representative of the Registered Entity who signs the Mitigation Plan shall be (if applicable) the person that signed the Self-Certification or Self-Report submittal. The Mitigation Plan must be signed by an officer, employee, attorney or other authorized representative of the Registered Entity.

Section 6.3 – Timetable for Completion of Mitigation Plans – (1) Detailed text concerning the timing by which a Mitigation Plan should be completed is deleted and replaced with "shall be

completed in accordance with its terms.” (2) Examples of grounds on which the completion deadline may be extended are revised to include specific operational issues such as the ability to schedule an outage to complete Mitigating Activities and construction requirements that require longer to complete than originally anticipated.

Section 6.4 – Submission of Mitigation Plans – Revised to provide that a Mitigation Plan may be reflected in a settlement agreement or Notice of Penalty (in addition to the option of being submitted as a separate document). This is consistent with longstanding practice, *e.g.*, that the terms of the Mitigation Plan are often included in the settlement agreement rather than in a separate “Mitigation Plan” document.

Section 6.6 – Completion/Confirmation of Implementation of Mitigation Plans – (1) Revised to delete reference to the CEA verifying that the Registered Entity is in compliance with the requirements of the Reliability Standard a noncompliance with which led to the Mitigation Plan. The CEA will only be required to verify that all required actions in the Mitigation Plan have been completed. (2) Revised to state that the Regional Entity will provide to NERC the quarterly status reports from Registered Entities on progress in completing Mitigation Plans, “upon request by NERC” (rather than as a matter of course).

G. Section 7.0 – Remedial Action Directives

Consistent with the revision to the definition of Remedial Action Directive (§1.1.27), this section is revised to state that a Remedial Action Directive is issued when the action is immediately necessary to protect the reliability of the BPS from an imminent or actual threat.

The third paragraph is revised to remove the text that the CEA shall consult the Reliability Coordinator for the Registered Entity “to ensure that the Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator,” *i.e.*, the consultation will not be limited to this topic.

The fourth paragraph is revised to expand the information to be included in a notice of Remedial Action Directive, including the requirement the CEA is imposing to remove the threat to reliability of the BPS and schedule for specific periodic updates to the CEA on progress to achieving compliance. This provision was revised based, in part, on stakeholder comments on the November 7 posting.

The fifth paragraph is revised to provide that the notice of the Remedial Action Directive that is delivered by electronic mail shall be sent to both the Registered Entity’s CEO and its designated contact person for reliability matters; and that the notice will be deemed received on the earlier of the actual date of receipt of the electronic submission or receipt of the express courier delivery of the notice as specified by the courier service’s verification of delivery.

The sixth paragraph is revised to specify that the CEA will copy NERC on all correspondence sent to the Registered Entity.

H. Section 8.0 – Reporting and Disclosure

This section is revised to contain two subsections, as described below.

Section 8.1 – Information to be Reported – This section lists the information to be provided by Regional Entities to NERC via electronic reports. A sentence is added that NERC will work with Regional Entities to specify form, content, timing and method of submitting reports and notices. The revised list of information to be reported includes the status of the review and assessment of all Possible Violations, Alleged Violations and Confirmed Violation; the potential impact of any Alleged Violation of Confirmed Violation on the reliability of the BPS; and the name of a Regional Entity staff person knowledgeable about the information to serve as a point of contact, as well as other information specific in current §8.0.

Section 8.2 – Reporting to Applicable Governmental Authorities and Public Disclosure – Text concerning procedures for the disclosure of non-public U.S. compliance information to Applicable Governmental Authorities other than FERC, and disclosure of non-public non-U.S. compliance information to FERC, which is currently found in several sections of Appendix 4C, has been placed into §8.2 and deleted from all other sections. As described above with respect to the revisions to other sections in which this text is being deleted, it is replaced with a reference to §8.0. This section is also revised to state that NERC will publicly post on its web site each Notice of Penalty, with any Critical Energy Infrastructure Information or Confidential Information redacted (unless publication of the Critical Energy Infrastructure Information or Confidential Information has been determined to be permissible in accordance with §1500 of the ROP), when NERC files the Notice of Penalty with FERC pursuant to §5.9.

I. Section 9.0 – Data Retention and Confidentiality

There are no changes to Section 9.0 other than changes in capitalization of terms and changes in certain terms to be consistent with the changes to those terms elsewhere in Appendix 4C.

VI. Attachment 1 to Appendix 4C – Process for Non-Submittal of Requested Data

In Attachment 1 to Appendix 4C, the process steps that the CEA will follow for non-submittal of data, information or reports that is requested or required in connection with a compliance monitoring or enforcement process, have been revised. The revised text more clearly sets forth the three steps (formerly stated as four steps) that will be followed, including the additional notifications that will be issued and to whom they will be issued, if the Registered Entity fails to provide data, information or reports requested in a compliance monitoring or enforcement process by the Required Date. Additionally, in response to stakeholder comments, a paragraph has been added to state that the process described in Attachment 1 is intended to be applied where a Registered Entity does not respond by the Required Date to an initial request for data, information or reports in connection with a compliance monitoring and enforcement process and does not respond to subsequent requests by the stated deadline; and that the process is not intended to apply where the Registered Entity responds, prior to the Required Date, to the initial request or requirement for data, information or reports with requests for clarification, definition of scope, or similar questions concerning the request or requirement for data, information or

reports, or requests, prior to the Required Date, additional time to respond based on the scope or difficulty of the request or requirement for data, information or reports, the amount or extent of the data, information or reports requested or required, or the form in which the data, information or report is to be provided, and works with the CEA in good faith to respond to the request or requirement for data, information or reports, as modified if appropriate by the CEA based on questions raised by the Registered Entity.

VII. Attachment 2 to Appendix 4C – Hearing Procedures

Throughout Appendix 2, (1) references to “[HEARING BODY]” (which were originally intended to allow each Regional Entity to insert the name of its Hearing Body) have been replaced with “Hearing Body;” and (2) references to provisions within Attachment 2 have been changed from “Paragraph” to “Section.” Additionally, in numerous sections, the text has been divided into lettered subsections ((a), (b), (c), etc.).

A. Section 1.1 -- Applicability, Definitions and Interpretation

Section 1.1.1 – Procedure Governed – (1) Subsection (b) is revised to provide that where the Hearing Body is comprised, in whole or in part, of industry stakeholders, the composition of the Hearing Body shall be such that no two industry segments may control, and no single industry segment may veto, any decision by the Hearing Body; and where the Hearing Body is comprised solely of independent members and an independent Hearing Officer, decisions shall require a majority vote. This revision is intended to accommodate NPCC’s new Hearing Body composition which was recently approved by the Commission. (2) A new subsection (d) has been added providing that if a final order has been entered by the Hearing Body, or the Hearing Body has issued a ruling determining that there are no issues to be decided regarding the Alleged Violation, proposed Penalty amount, proposed Mitigation Plan or proposed Remedial Action Directive, or the Registered Entity and the CEA have entered into a settlement agreement resolving the matters that are the subject of the hearing, the hearing shall be terminated by the Hearing Body and no further proceedings shall be conducted.

Section 1.1.2 – Deviation – A reference to the Hearing Officer “as defined in Paragraph [now Section] 1.1.5 has been deleted as unnecessary.

Section 1.1.4 – Interpretation – A new subsection (b) is added to provide that “Any ruling, order or decision of the Hearing Officer referenced in these Hearing Procedures shall be made by the Hearing Body where the composition of the Hearing Body consists of independent members and an independent Hearing Officer.” This additional text is intended to accommodate NPCC’s new Hearing Body composition which the Commission has recently approved; it avoids a situation in which the Hearing Officer, as a member of the Hearing Body, would be required to review his or her own decisions.

Section 1.1.5 – Definitions – (1) The definition of “Clerk” is expanded to identify his/her duties (“perform administrative tasks relating to the conduct of hearings as described in these Hearing Procedures”). (2) The definition of “Director of Compliance” is expanded to include an individual designated by the CEA (regardless of title) who is responsible for management and

direction of the Compliance Staff. (3) Two new definitions are added, “Evidentiary Hearing” and “Testimonial Hearing.” An Evidentiary Hearing is a hearing at which one or more Participants submit evidence for the record, while a Testimonial Hearing is an Evidentiary Hearing at which one or more witnesses appear in person to present testimony and be subject to cross-examination. (Corresponding revisions are made throughout the Hearing Procedures as necessary to identify references to hearings as “Evidentiary” or “Testimonial”.) (4) A definition of “Hearing Body” is added, consistent with the revision of this term from “[HEARING BODY]” as described above. (5) The definition of “Participant” is revised consistent with the revisions to Section 1.2.12 (described below) that provide for the Hearing Body to be able to grant intervention into the hearing in specific, limited circumstances.

B. Section 1.2 – General Provisions including Filing, Service, Transcription and Participation

Section 1.2.1 – Contents of Filing – In subsection (d) a reference to “documents” is changed to the broader term “evidence.”

Section 1.2.3 – Submission of Documents – (1) In subsection (a), the placeholder for insertion of the CEA’s regular business hour is deleted and replaced with “during the Compliance Enforcement Authority’s regular business hours.” (2) In subsection (b), the placeholder for insertion of the CEA’s time of close of business is deleted and replaced with “5:00 P.M.” (3) In subsection (e), the statement “The signature on a filing constitutes a certificate that the signer has read the filing and knows its contents, and that the contents are true to the best of the signer’s knowledge and belief” is deleted, since this topic is now covered in new §1.2.15.

Section 1.2.4 – Service – (1) In subsection (a), the statement that the Registered Entity’s “designated agent for service” shall automatically be included on the service list is changed to “compliance contact.” (2) In subsection (b), a proviso “subject to the provisions of Section 1.5.10” is added. Section 1.5.10 is the section of the Hearing Procedures on Protective Orders. (3) Subsection (c) is revised to state that the Clerk shall transmit a copy of the record to the ERO at the time the CEA transmits (rather than “serves”) to the ERO a Notice of Penalty or a Hearing Body final order that includes a Notice of Penalty.

Section 1.2.8 – Transcripts – (1) The text in subsection (a) is amended to provide that the court reporter shall file a copy of each transcript with the Clerk, and that upon receipt of a transcript from the court reporter, the Clerk shall send notice to the Participants stating that a transcript has been filed by the court reporter, the date or dates of the hearing that the transcript records, and the date the transcript was filed with the Clerk. This filing and notice initiate the time period within which the Participants may file transcript corrections. (2) In subsection (b), the time within which a Participant may file suggested transcript corrections is changed to within 14 days from the date of the Clerk’s notice that the transcript has been filed with the Clerk. In addition, this subsection is revised to provide that the Hearing Officer shall only allow changes that conform the transcript to “the statements being transcribed” (rather than suggesting that the testimony given could be revisited).

Section 1.2.11 – Participant Participation – the statement that witnesses shall personally appear at the Evidentiary Hearing if required by Paragraph 1.6.6 is deleted and replaced with “except as required by Section 1.6.6” (§1.6.6 addresses the requirements for witness attendance at Testimonial Hearings).

Section 1.2.12 – Interventions – (1) The title of this section is changed from “Interventions Are Not Permitted,” as the revised section will authorize the Hearing Body to allow intervention under limited, specific circumstances. (2) The section is revised as necessary throughout to reflect that the Hearing Body (as well as FERC) will be allowed to permit interventions. (3) New subsection (b) provides that the Hearing Body may allow a Person to intervene only if the Hearing Body determines that the Person seeking intervention has a direct and substantial interest in the outcome of the Alleged Violation, proposed penalty or sanction, Mitigation Plan, or Remedial Action Directive that is the subject of the proceeding. Two examples of a “direct and substantial interest in the outcome” are provided in the text. Two examples of situations that will not constitute “a direct and substantial interest in the outcome” and will not be grounds on which intervention may be allowed, are also provided in the text (including “seek[ing] to intervene to advocate an interpretation of the Reliability Standard requirement(s) or provision(s) of the *Sanction Guidelines* that are at issue”). (3) Subsections (c), (d) and (e) set forth the procedures and timing requirements for submission of a motion to intervene (including the required contents), responses by other Participants, issuance of a recommendation by the Hearing Officer, and the Hearing Body’s decision on the motion to intervene. (4) Subsection (f) authorizes the Hearing Officer or the Hearing Body to stay or suspend the proceedings while a request to intervene filed with the Hearing Body or with FERC, or any appeal of the ruling on the request to intervene, is being resolved. (5) Subsection (g) provides that a Person allowed to intervene shall be deemed to be aligned with the Respondent(s), unless the Hearing Body specifies that the Person intervening shall be aligned with another Participant. (6) Subsection (h) provides that a Person allowed to intervene must take the record and procedural status of the proceeding as it stands on the date the motion to intervene is granted by the Hearing Body. (7) Subsection (i) provides that appeals of decisions of the Hearing Body granting or denying requests to intervene may be appealed to NERC in accordance with ROP §414, and that the notice of appeal must be filed with the NERC director of enforcement no later than seven days following the date of the decision of the Hearing Body granting or denying the intervention.

Section 1.2.14 – Docketing System – Revised to state that a docketed proceeding shall be created upon the filing of a request for hearing (rather than upon issuance of a Notice of Alleged Violation). Docketed hearing proceedings need to be created by the Regional Entity Hearing Body only when a request for a hearing on a matter is filed.

Section 1.2.15 – Representation Deemed to be Made in All Pleadings – This is a new section. It provides that a Participant presenting any pleading to the Hearing Officer or Hearing Body shall be deemed to certify to the best of the Participant’s knowledge, information and belief, formed after and based on an inquiry that is reasonable under the circumstances, certain specified matters as to the factual allegations in the pleading, the denials in the pleading of factual allegations made by another Participant, the claims, defenses and other contentions set forth in the pleading, and that the pleading is not being presented for any improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost incurred by any Participant.

C. Section 1.3 – Initiation of the Hearing Process

Section 1.3.1 – Registered Entity’s Option to Request a Hearing – (1) This section has been divided into subsections. (2) In subsection (d), concerning notification in a Notice of Alleged Violation of hearing options, a reference to Section 5.3 of the Compliance Monitoring and Enforcement Program is added. (3) Subsection (e) sets forth the required contents of a Registered Entity’s request for hearing, and provides that the Registered Entity may state two or more alternative grounds for its position. (4) Subsection (f) contains the provisions for determining if the general hearing procedure (referred to in the current Hearing Procedures as the “full” hearing procedures) or the shortened hearing procedure will be used, based on the Registered Entity’s request and the response by the Compliance Staff and any other Participants (there are no substantive changes to this provision).

Section 1.3.2 – Compliance Staff’s Response to Request for Hearing – This section specifies that the Compliance Staff must file a response to the request for hearing (i) if the request for hearing requests use of the shortened hearing procedure or (ii) the request for hearing requests that the Registered Entity’s proposed revised Mitigation Plan be approved. In all other situations, the Compliance Staff may, but is not required to, file a response to the request for hearing. Any response by the Compliance Staff must be filed within 15 days after the date the request for hearing was filed, unless the Hearing Officer or Hearing Body allows a longer time.

Section 1.3.3 – Notice of Hearing – This new section provides that the Clerk shall issue a notice of hearing not less than 16 days nor more than 21 days after the request for hearing is filed, stating whether the shortened hearing procedure or the general hearing procedure will be used; and identifying the Hearing Officer and the date, time and place for the initial prehearing conference (which shall be set for seven days following the date of the notice if the shortened hearing procedure is to be used, and 14 days following the date of the notice if the general hearing procedure is to be used).

Section 1.3.4 – Shortened Hearing Procedure – There are a number of revisions to this section to conform to terminology changes elsewhere in the revised Hearing Procedures; however, the following two revisions are substantive: (1) Compliance Staff is to make Documents available to the Registered Entity for inspection and copying pursuant to §1.5.7 within ten days (rather than five days) after the issuance of the notice of hearing; and (2) it shall be the objective of the Hearing Body to issue its final order within 120 days (rather than 90 days) after the notice of hearing. Completing the hearing process within 90 days was viewed as unrealistic in light of the various intermediate time periods for activities specified in the Hearing Procedures.

D. General Hearing Procedure

Section 1.4.1 – [Currently] Notice of Hearing – The text of this section, which in the current Hearing Procedures covers issuance of the initial notice of hearing, is deleted (this topic will be covered in new §1.3.3), and the section is intentionally left blank to avoid the need to renumber all the following subsections in §1.4.

Section 1.4.2 – Hearing Officer – (1) In subsection (a), text is revised to provide that the CEA shall (rather than may) utilize a Hearing Officer to preside over the hearing. (2) Correspondingly, subsection (b) is revised to provide that the Hearing Officer is responsible (rather than may be delegated authority) for the conduct of the hearing. (3) In subsection (b), the list of the Hearing Officer’s responsibilities is modified to include to “hear argument on all objections, motions and other requests.”

Section 1.4.3 – Hearing Body – (1) New subsection (a) provides that the composition of the Hearing Body, after any recusals or disqualifications, shall be such that no two industry segments may control, and no single industry segment may veto, any decision of the Hearing Body. (2) The text in subsection (b) is revised to specify that upon receiving a filing by a Participant, the Clerk shall promptly send a notice to the members of the Hearing Body identifying the date of the filing and the Participant making the filing and briefly describing the nature of the filing, and that any member of the Hearing Body may request from the Clerk a copy of any filing made by a Participant. (3) Subsection (b) is also revised to specify that the Clerk shall send all issuances of the Hearing Officer to the Hearing Body members. (4) Text is added to subsection (b) to specify that at any prehearing conference or hearing attended by a member of the Hearing Body, the Hearing Body member may ask questions directly of any Participant or witness.

Section 1.4.4 – Interlocutory Review – Revised to provide that a petition for interlocutory review shall be supported by either references to the record or by affidavit if based on facts that do not appear in the record.

Section 1.4.5 – Disqualification – Revised to provide that where a replacement Hearing Officer is appointed after the hearing has commenced, the replacement Hearing Officer may recall any witness or may take other steps necessary to ensure familiarity with the record.

Section 1.4.7 – No Ex Parte Communications – (1) Text is added to specify that the proscription against ex parte communications does not prohibit (i) communications between the Hearing Officer or members of the Hearing Body to the Clerk for the purpose of transmitting documents, giving instructions to the Clerk, or discussing scheduling or other procedural matters, or (ii) communications between or among the Clerk, the Hearing Body and representatives of the CEA for purposes of establishing the hearing forum. (2) In subsection (c), text is revised to require that a report of a prohibited communication be made by any member of the Hearing Body, the Hearing Officer or a Technical Advisor who receives or makes or knowingly allows (currently “knowingly causes to be made”) a prohibited communication.

Section 1.4.8 – Appearances – Text is added to specify that all representatives appearing before the Hearing Body or Hearing Officer shall conform to the standards of ethical conduct required of practitioners before the courts of the United States.

Section 1.4.10 – Consolidation of Proceedings – (1) Revised to provide that consolidation may be considered on motion of a Participant (in addition to by the Hearing Body on its own motion). (2) References to “transaction” are changed to “occurrence,” as more descriptive of the types of events that might result in an Alleged Violation, proposed penalty or proposed Mitigation Plan and ultimately result in a hearing before a Regional Entity Hearing Body.

E. Section 1.5 – Prehearing Procedure

Section 1.5.2 – Prehearing Conferences – (1) Revised to require the Hearing Officer to hold at least one prehearing conference. (2) Topics are added to the topics to be discussed at the initial prehearing conference. (3) Text is added to specify that the scheduled date for the Evidentiary Hearing shall be within 90 days of the initial prehearing conference, unless a different date is specified by the Hearing Officer or the Hearing Body with the consent of all Participants or for good cause shown. (4) Text is added to require the Hearing Officer to hold a final prehearing conference prior to the Evidentiary Hearing, to discuss specified topics and other topics suggested by the Participants.

Section 1.5.3 – Summary Disposition – (1) The basis for granting summary disposition is revised to state that there are no issues of material fact and a Participant is entitled to issuance of a final order in its favor. (2) More detailed requirements are added for the contents of a motion requesting summary disposition and the responses in opposition.

Section 1.5.4 – Status Hearing – (1) Text is added to expand the reasons for a status hearing to include “other matters relevant to the conduct of the hearing.” (2) Text is added to require that a Participant requesting a status hearing to resolve a dispute shall include in its request a certification that it has made a good faith effort to resolve the dispute with the other Participant(s) before requesting the status hearing.

Section 1.5.7 – Inspection and Copying of Documents in Possession of Staff – (1) Revised to specify that Staff is to make Documents available for inspection and copying by other Participants (rather than by just the Respondent) within 25 days after the request for hearing is filed (rather than within 5 days after the notice of hearing is issued). Corresponding revisions of “Respondent” to “Participants” are made throughout this section. (2) The requirements for production of later-received Documents are tied to the scheduled date of the Evidentiary Hearing (rather than “the hearing”). (3) The provision concerning privileged and work product Documents that may be withheld by Compliance Staff is revised to Documents that are privileged to, or work product of counsel to, the CEA (rather than the Compliance Staff). (4) Text is revised to provide that inspection reports, internal memoranda or other notes or writings prepared by Compliance Staff may be withheld if they will not be offered in evidence “or otherwise relied on by Staff in the hearing.” (5) The provision concerning Documents that may be withheld by Compliance Staff because they would disclose an examination, investigatory or enforcement technique or guideline is revised to specify that the protected information must not otherwise be made public. (6) Subsection (c) is revised to require that the Compliance Staff’s withheld Documents list must include a statement of the grounds that support withholding the Documents. (7) Subsection (c) is also revised to specify that the Hearing Officer, for good cause shown, may order Compliance Staff to make available any withheld Document other than a Document that is subject to attorney-client privilege. (8) Subsection (e) is revised to make it clear that a Participant may remove from the CEA’s offices copies of the Documents made available by the CEA.

Section 1.5.8 – Other Discovery Procedures – (1) Text is revised to provide that the Hearing Officer, for good cause shown, may order a Participant to make a withheld Document available

to other Participants, for inspection or copying. (2) The time period during which discovery should be completed is revised to 6 months following the date the request for hearing was filed (changed from 6 months from the date of the initial prehearing conference).

Section 1.5.9 – Pre-Evidentiary Hearing Submission of Testimony and Evidence – Revised to clarify that all Participant witness direct testimony to be submitted in an Evidentiary Hearing must be prepared in written form.

Section 1.5.11 – Pre-Evidentiary Hearing Memorandum – (1) Revised to eliminate the need for the Hearing Officer or Hearing Body to have grounds for requesting submission of pre-Evidentiary Hearing memoranda. (2) Revised to provide that the topics directed to be included in the pre-Evidentiary Hearing Memoranda may include “such other matters as may be directed by the Hearing Officer or the Hearing Body.”

Section 1.5.12 – Certification of Questions to the NERC Board of Trustees – This new section provides for certification by the Hearing Body to the NERC Board of Trustees, for decision, a significant question of law, policy or procedure the resolution of which may be determinative of the issues in the proceeding in whole or in part, or as to which there are other extraordinary circumstances that make prompt consideration of the question by the Board of Trustees appropriate, pursuant to ROP §412. The section specifies that questions of fact presented by the particular matter in dispute in a hearing shall not be the subject of a certification. The section provides the procedures for requesting certification of a question or considering whether a question should be certified. The Hearing Body shall determine whether any proposed question shall be certified to the NERC Board for decision. The Hearing Body shall also determine whether or not the hearing should be stayed or suspended while a certified question is pending before the NERC Board.

F. Section 1.6 – Procedure at Evidentiary Hearing

Section 1.6.1 – Purpose of Evidentiary Hearing – Revised to delete the provision that the evidentiary hearing also may be used to address any other issue pending between the Participants.

Section 1.6.6 – Witness Attendance at Testimonial Hearing – A provision is added to specify that a person compelled to appear, voluntarily testifying, or making a statement may be accompanied, represented and advised by an attorney.

Section 1.6.14 – Cross-Examination – (1) Revised to provide that leading questions are permitted on cross-examination. (2) Text is added to state that the credibility of a witness may be attacked by any Participant, including the Participant calling the witness. (3) Revised to delete the requirement that if a member of the Hearing Body seeks to ask a witness questions, the Hearing Body member shall do so by submitting the questions in writing to the Hearing Officer to ask the witness (in other words, Hearing Body members can question witnesses directly).

Section 1.6.15 – Redirect Examination – Revised to delete the requirement that if a member of the Hearing Body seeks to ask a witness questions, the Hearing Body member shall do so by submitting the questions in writing to the Hearing Officer to ask the witness.

Section 1.6.17 – Close of the Evidentiary Record – (1) Revised to state that the Hearing Officer may reopen the evidentiary record for good cause shown prior to issuance of the Hearing Body’s final order. (2) A statement is added that for purposes of reopening the evidentiary record, newly discovered evidence that is material to the issues in dispute and could not, by due diligence, have been discovered prior to or during the Evidentiary Hearing, shall constitute good cause.

G. Section 1.7 – Post-Evidentiary Hearing Procedure

Section 1.7.1 – Briefs – (1) Revised to allow the Hearing Officer to allow oral closing statements in addition to (not just in lieu of) briefs, and to delete the requirement that there must be agreement of the Participants in order for the Hearing Officer to allow oral closing statements in addition to or in lieu of briefs (thereby leaving it to the Hearing Officer’s discretion as to whether or not to allow or request closing statements). (2) Revised to allow the Hearing Officer to impose reasonable word limits (rather than page limits) on briefs. The use of word limits is consistent with current practice in many courts and agencies.

Section 1.7.4 – Hearing Officer’s Initial Opinion – Revised to eliminate the provision that if the initial opinion proposes a Penalty, the initial opinion shall include a proposed Notice of Penalty. Notices of Penalty are prepared by NERC. Corresponding revisions are made in other sections of the Hearing Procedures to delete references to Notices of Penalty prepared by the Hearing Officer or the Hearing Body.

Section 1.7.5 – Exceptions – Revised to allow the Hearing Officer to impose reasonable word limits (rather than page limits) on briefs.

Section 1.7.7 – Additional Hearings – Revised to state that the Hearing Officer may reopen the record and hold additional hearings before issuance of the Hearing Body’s final order (rather than before issuance of the Hearing Officer’s initial decision).

Section 1.7.10 – Appeal – (1) Revised to state that a Participant or a Regional Entity acting as the CEA may appeal a final order of the Hearing Body to NERC in accordance with NERC ROP §409. (2) The statement that the Clerk shall transmit the record to NERC for any proceeding that appealed is deleted, as the procedures governing appeals are set forth in ROP §409.

H. Section 1.8 – Settlement

Consistent with revisions in Section 5.6 of the Compliance Monitoring and Enforcement Program, this section is revised to provide that the CEA may terminate settlement negotiations at any time.

I. Section 1.9 – Remedial Action Directives

Section 1.9.1 – Initiation of Remedial Action Directive Hearing – Revised to specify that the CEA will notify NERC within two business days after issuance of a Remedial Action Directive.

Section 1.9.2 – Remedial Action Directive Hearing Procedure – (1) Revised to state that the

hearing shall (rather than may) be presided over by a Hearing Officer. (2) Revised to state that the Hearing Body shall issue its summary written decision within 10 days following submission of the last brief (rather than within 10 days following the hearing). (3) Text is added to clarify that “upon issuance of the summary written decision, the Registered Entity is required to comply with the Remedial Action Directive as specified in the summary written decision;” that is, the obligation to comply is not postponed until the Hearing Body issues its full written decision.

VIII. Appendix 5A – Organization Registration and Certification Manual

A. Section I – Executive Summary

A number of revisions have been made throughout Appendix 4A for more consistent use of terms and acronyms, such as “BPS,” “RC,” “TOP” and “BA,” and “user, owner or operator” (of the BPS).

The section captioned “Where to Access and Submit Form(s)?” is revised to specify that completed registration and certification forms should be sent to the website location and/or individual(s) responsible for registration and/or certification at the Regional Entity.

In the section captioned “Roles and Responsibilities,” the descriptions of the roles and responsibilities of NERC and the Regional Entities in the registration and certification processes have been revised in accordance with current practice.

B. Section II – Introduction to Organization Registration and Organization Certification Processes

In the section captioned “Organization Certification,” text has been revised to specify that all entities registered in the NERC Compliance Registry for the RC, TOP and BA functions, and entities that perform some or all of the reliability functions for or with the RC, TOP or BA, shall be certified.

C. Section III – Organization Registration Process

The section captioned “Organization Registration Process,” including Figure 1, Organization Registration Process Overview, has been revised consistent with current practice as to the respective responsibilities of NERC and the Regional Entities in the organization registration process.

D. Section IV – Organization Certification Process

In the section captioned “Purpose and Scope,” the reference to certification of a new entity that will become NERC certified and registered as a BA, TOP or RC has been expanded to include those entities that perform some or all of the reliability functions of an RC, BA or TOP.

In the section captioned “Organization Certification Process,” the text describing the Provisional Certification Process has been deleted, since the Provisional Certification Process is no longer

needed. In subsection 8c of that section, the reference to the Regional Entity as the entity to which an entity undergoing certification may express its objections to a member of the Certification Team (CT), has been changed to the Certification Team Lead. A new subsection 8e has been added to describe the composition of the CT where an existing certified entity is seeking to expand its Footprint. In subsection 13, an exception has been added to the requirement that the CT shall conduct at least one on-site visit to the entity's facilities, specifically, where only a minor change in the existing Footprint of an existing certified entity is under review, in which case the CT may determine that an on-site visit is not necessary. In Section 21, the provision that NERC shall update the Compliance Registry (for a new certification) "prior to the entity going operational" is changed to "in accordance with the registration rules."

F. Section V – NERC Organization Registration Appeals Process

The title and address of the NERC employee with whom registration appeals must be filed is revised. Registration appeals should now be submitted to the NERC Director of Compliance Operations.

G. Section VI – NERC Organization Certification Appeals Process

In the section captioned "Organization Certification Appeals Procedure," the title of the NERC employee with whom registration appeals must be filed is revised. Registration appeals should now be submitted to the NERC Director of Compliance Operations. Subsection 5d has been revised to more clearly describe the actions to be taken by NERC based on the Board of Trustees Compliance Committee's decision on the registration dispute.

IX. Appendix 5B – Statement of Compliance Registry Criteria

On pages 10-11 of Appendix 5B, item V has been revised as follows: "If NERC or a Regional Entity encounters an organization that is not listed in the Compliance Registry, but which should be subject to the Reliability Standards, NERC or the Regional Entity is obligated and will initiate actions to add that organization to the Compliance Registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below." No changes to Appendix 5B were proposed in the November 7 posting. However, the NERC Compliance and Certification Committee submitted a comment on a proposed change to Appendix 5A, that the changes in Appendix 5A that made NERC solely responsible for maintaining the Compliance Registry, needed to be reflected in the above-quoted text of Appendix 5B (since the quoted text in Appendix 5B, before the proposed revision, indicates that either NERC or a Regional Entity can add an entity to the Compliance Registry). In response to this comment, the referenced text on pages 10-11 of Appendix 5B is changed to state that in the circumstances described, NERC or the Regional Entity, as applicable, will initiate actions to add the organization to the Compliance Registry. Since this revision is a conforming change to Appendix 5B in response to a specific stakeholder comment on the proposed changes to Appendix 5A, the change to Appendix 5B is being presented for approval even though no proposed changes to Appendix 5B were contained in the November 7 posting.

X. Appendix 6 – System Operator Program Certification Manual

Appendix 6 is being deleted from the ROP, and, as described above in the summary of the revisions to ROP Section 600, the substantive provisions of Appendix 6 are being moved into Section 600. It was determined that Appendix 6 contained a significant amount of administrative detail about the System Operator Certification Program that does not need to be in the ROP.

SUMMARY OF STAKEHOLDER COMMENTS AND RESPONSES TO RULES OF PROCEDURE REVISIONS

Change proposed by NERC	Comment received	Outcome	Justification/Notes
None	A global change should be made to change Bulk Power System to Bulk Electric System throughout the ROPs. (NPCC)	No additional change.	<p>The term bulk power system” is from the Energy Policy Act of 2005 and is set forth in Section 215 of the Federal Power Act. Both NERC and the Federal Energy Regulatory Commission have jurisdiction with respect to the Bulk Power System. Section 215 states:</p> <p>(1) The term “bulk-power system” means— (A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (B) electric energy from generation facilities needed to maintain transmission system reliability.</p> <p>The term does not include facilities used in the local distribution of electric energy.</p> <p>FERC has addressed the BPS versus BES issue in a couple of different orders. FERC has stated that BPS defines the extent of its jurisdiction and that definition has not been delegated to the ERO and is not subject to ANSI. The BES definition identifies who must comply with Reliability Standards and is developed through the Standards Development Process.</p> <p>The Commission-approved Statement of Compliance Registry Criteria states that “Entities that use, own or operate elements of the bulk electric system as established by NERC’s approved definition of bulk electric system below are (i) owners, operators, and users of the bulk power system and (ii) candidates for registration.”</p>
Section 200			
All definitions have been removed from Section 200. All definitions used in the ROP and Appendices are now found in Appendix 2, which was originally filed with FERC for approval on November 29, 2011.	If a defined term is included in the ROP, its definition should be in Section 200. (SPP RE)	No additional change.	This comment is superseded by the November 29 ROP filing.

Change proposed by NERC	Comment received	Outcome	Justification/Notes
Revised definition of confirmed violation to be consistent with revised definition in Appendix 4C	Objection to revised definition of “Confirmed Violation” that includes a settlement agreement where Registered Entity has not admitted to the violation. Item (4) in the definition should say: “the registered entity has admitted to the violation in a settlement agreement.” (LGC; OEV)	The definition has been further revised, although this requested change was not made.	As discussed here and below, the point of the definition is that the violation has reached an end state of processing. This is the case for a settlement agreement, regardless of whether the Registered Entity admits it or neither admits nor denies it.
Revised definition of confirmed violation to be consistent with revised definition in Appendix 4C	If the objective is to apply the definition of “Confirmed Violation” to circumstances where an entity neither admits nor denies a violation but resolves it through settlement, a new term such as “Contested Violation” or “Resolved NOP” should be created. (MISO; OEV)	No additional change. See above.	See above. NERC concluded that creating a separate term was not necessary.
Revised definition of confirmed violation to be consistent with revised definition in Appendix 4C	In the definition of Confirmed Violation, clause 2, the following addition should be made: “there has been the issuance of a final order from NERC or the Regional Entity hearing process finding a violation, penalty, or sanction . . .” (SPP RE)	This change was adopted.	
Revised definition of confirmed violation to be consistent with revised definition in Appendix 4C	In the definition of Confirmed Violation, what is “or other notification” [after “has accepted the notice of alleged violation and proposed penalty or sanction”] referring to? (SPP RE)	No additional change.	As explained in the detailed summary of revisions, the term “other notification” has been added to provide flexibility for the method for communicating confirmation of a violation by the Compliance Enforcement Authority. Some Regional Entities may communicate this information through means other than a Notice of Confirmed Violation.
Added the following definition for Required Date: “Required date” means the date given a registered entity in a notice from NERC or a regional entity by which some action by the registered entity is required.	Required Date – the objective of this definition seems to be to create a time point from which NERC can seek to penalize Registered Entities for failure to meet unilaterally created deadlines. (MISO)	No additional change.	“Required Date” is an existing term in Appendix 4 and is not a proposed addition. It is simply a defined term to refer generically to the date on which information is required or requested to be provided.
None	The definitions for Certification and Continuing Education Hour should be deleted from section 200. (PCGC)	No additional change.	This will be accomplished with the adoption of Appendix 2.
Section 300			

Change proposed by NERC	Comment received	Outcome	Justification/Notes
Changed the term “adoption” to “approval” with respect to Reliability Standards and VRF/VSLs.	NERC should make sure that all revised terminology such as changes from “approval” to “adoption” in Section 308 are consistently implemented throughout. (Trades)	Sections 312.1, 312.3.3, 312.4.3, 312.4.4, 312.4.5, 312.5 – Revised text to reflect that Reliability Standards are “adopted,” not “approved,” by the NERC Board of Trustees (in accordance with ANSI requirements).	
Modified Standards Process Manager section to apply generally to management (as opposed to a specific title) and include the administration of the regional standards.	Section 307. The phrase “a regional standards manager to administer the development of the regional reliability standards” should be changed to “. . . to oversee the development of the regional reliability standards.” Also, this text should reflect that the standards process manager is responsible for seeing to it that FERC-approved regional standard development processes are followed. (NPCC)	No additional change.	The regional standards manager will coordinate with any regional entities that develop regional reliability standards to ensure those standards are effectively integrated with the NERC reliability standards.
Updated the procedure section under “Steps in the Development of Reliability Standards”	Section 308. The last word in this section is misspelled (should be “issues”). (OEV)	Corrected error.	Comment was correct and the change was made.
Update the following: Section 317 – Revised text as follows: “NERC shall complete a review of each NERC Reliability Standard at least once every five years, <u>or such longer period as is permitted by the American National Standards Institute</u> , from the effective date of the Reliability Standard or the latest revision to the Reliability Standard, whichever is later.”	Section 317. The modifications to allow flexibility and/or elimination of the 5-year review of Standards should be rejected. The currently-required 5-year review should be retained. (MISO)	No additional change.	In accordance with the Standard Processes Manual, Appendix 3C, NERC will review each Reliability Standard. The periodic review will be administered by the standards process manager. It may be possible to obtain relief from ANSI from the requirement that each Reliability Standard be reviewed at least every five years. Reviewing all 100+ standards every 5 years is extremely difficult if not infeasible and resources should not be devoted to this extensive effort if not required by ANSI.
Section 318 – Deleted references to “through a memorandum of understanding” and to the ISO/RTO Council.	Section 318. Instead of deleting the reference to maintaining a close working relationship with the ISO/RTO Council, NERC should retain that reference but delete “through a memorandum of understanding.” (IRC) The reference to the ISO/RTO Council should not be removed from this provision. (MISO)	Deleted reference to “through a memorandum of understanding” and restored reference to ISO/RTO Council.	There does not appear to be a need to have a reference to a memorandum of understanding. The key aspect of this provision is that NERC will continue to maintain close working relationships with the North American Energy Standards Board and the ISO/RTO Council to coordinate wholesale electric business standards and market protocols with NERC Reliability Standards.
None (with respect to length of time Standards are maintained on-line)	Section 319. Retired Standards should be maintained on-line for at least 6 years (i.e. the	Changed provision to require that archived Reliability Standards information will be	The provision was changed to ensure that archived Reliability Standards information will be

Change proposed by NERC	Comment received	Outcome	Justification/Notes
Section 319 – Changed reference to “standards that expired or were replaced” to “standards that have been retired,” which is consistent with the terminology NERC uses elsewhere to describe standards no longer in effect. Also, changed reference to “NERC standards manager” to “NERC standards information manager” – the position of standards information process manager will be responsible for receiving and responding to requests for archived standards information.	maximum audit cycle) and archived for a longer period. (BPA)	retained at least six (was five) years, which is the outside length of the Compliance Audit cycle for Registered Entities.	retained at least six years, to track the Compliance Audit cycle.
None	Section 320. The development of VRFs and VSLs needs to be simplified. (MISO)	No change is made.	No specific changes were identified. Changes to the development are more appropriately addressed at a later time. Changes on this topic were not proposed in the November 7 posting for stakeholder comment.
Section 320 – The section has been revised to describe generally the process for developing and approving VRFs and VSLs, rather than just the alternate method for adopting VRFs. New §320.1 states that NERC will follow the process for developing VRFs and VSLs set forth in the Standard Processes Manual. New §320.2 states that if an Applicable Governmental Authority remands or directs a revision to a Board-approved VRF or VSL, the NERC director of standards (based on consultation with the standard drafting team), the Standards Committee, and the NERC director of compliance operations, will recommend one of three actions to the Board: (1) file a request for clarification, (2) file a request for rehearing, or (3) approve the directed revision. Section 320.3, which now contains the “alternative procedure,” has been amended to apply to VSLs and well as to VRFs. Section 320.3 (which includes content being moved from ROP §1403, as it is more appropriately located in §300), has also been amended to specify that there will be notice and opportunity for comment before the Board approves a VRF or VSL, and that the Board will consider the inputs of the Member Representatives Committee (MRC), affected stakeholders, and NERC staff.	Section 320 should be modified to state that the NERC Board’s approval of VRFs or VSLs “shall consider the inputs of the Member Representatives Committee and affected stakeholders.” Also, section 320(3) should be expanded so that the input of NERC staff is also considered by the NERC Board in approving VRFs and VSLs pursuant to this section. (NPCC)	Section 320.3, which now contains the “alternative procedure,” has been amended to apply to VSLs and well as to VRFs. Section 320.3 (which includes content being moved from ROP §1403, as it is more appropriately located in §300), has also been amended to specify that there will be notice and opportunity for comment before the Board approves a VRF or VSL, and that the Board will consider the inputs of the Member Representatives Committee (MRC), affected stakeholders, and NERC staff. The revisions to §320.3 are based in part on a stakeholder comment on the November 7 posting.	Under the Alternative Procedure for Developing and Approving Violation Risk Factors and Violation Severity Levels, the Board of Trustees may approve VRFs and VSLs for that standard after notice and opportunity for comment. Accordingly, the Board shall consider the inputs of the Member Representatives Committee and affected stakeholders. Section 320.3 has been changed to add “and NERC staff”
Section 400			
None	NERC should clarify that an entity may submit a Mitigation Plan, obtaining the penalty protection conferred by following and completing the accepted Mitigation Plan, without negatively impacting its argument that the Possible Violation merits FFTR treatment. (TAPS)	No change was made in response to this comment. However, in response to another comment, in Section 403.10.5 – Added statement that a Mitigation Plan is required to be submitted in the event of a noncompliance “unless an	No change is required, because a Registered Entity may submit a Mitigation Plan even if not required for an enforcement process.

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		enforcement process is used that does not require a Mitigation Plan.”	
Section 401.8 – Amended section to specify that a registered entity shall not be subject to an enforcement action by more than one Regional Entity for the same violation.	Section 401.8. The phrase “or by more than one regional entity” should be deleted. Registered Entities that have separate registrations in more than one region should be subject to enforcement actions in each region. (SPP RE)	Section 401.8 – Amended section to specify that a Registered Entity shall not be subject to an enforcement action by more than one Regional Entity for the same violation, unless the Registered Entity is registered in more than one Region in which the violation occurred.	This clarification takes into account the rights and obligations of registered entities in multiple regions.
Section 402.5 – The revisions are intended to make the text more consistent with the definition of remedial action directive.	Section 402.5. The word “actual [threat]” should not be added as proposed. Threats are by definition imminent and potential activities. (MISO)	No additional change.	A threat can be imminent, or actually occurring (which makes it an “actual threat”), but even though objectionable condition is occurring (“actual threat”), there has been no impact to the BPS yet (which is why it is still a “threat”).
	Sections 403.15, 408.1, 409.1. Regional Entity should not be allowed to appeal decision of the Regional Entity Hearing Body to NERC. (ACES; Trades; Austin; KCPL; LPPC; LGC; OEV; MISO also appears to object to these provisions.)	No additional change.	See discussion of right to appeal a hearing body decision below, in connection with Appendix 4C Attachment 2. NERC staff believes these amendments are appropriate in light of the evolution of the Regional Entity hearing process and procedures. A hearing at the Regional Entity level was originally envisioned as the culmination of the compliance enforcement process at the Regional level. However, as the Regional Entity hearing process has evolved over time through a series of amendments to the uniform Hearing Procedures (Attachment 2 to Appendix 4C) and changes to Regional Entity Compliance Programs and other governance documents, in response to FERC directives and to concerns for greater due process in the Hearing Procedures, the Hearing Bodies are not extensions of the Regional Entity Compliance Program. Rather, they are independent tribunals with separation of functions from the Regional Entity Compliance Program, responsible to conduct due process hearings and rendering independent decisions. Thus, the typical hearing on a disputed compliance matter would find the Registered Entity litigating against the Regional Entity Compliance Staff before an independent decision-making body. Given these circumstances, it is appropriate to provide the Regional Entity Compliance Program, as well as

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			the Registered Entity, the ability to appeal the Regional Entity Hearing Body decision to NERC. Further, the Regional Entities act only through delegated authority from NERC as approved by FERC and other Applicable Governmental Authorities; NERC has ultimate responsibility for enforcement of compliance with mandatory Reliability Standards. Allowing the Regional Entity to appeal the decision of the Regional Entity Hearing Body on a disputed compliance matter provides the Regional Entity Compliance Program the ability to bring the matter before NERC for ultimate disposition.
Section 403.6 – Added reference to “mitigating activities” and changed reference to “remedial actions” to “remedial action directives.”	Section 403.6. Revised text says Regional Entity compliance program “determines . . . mitigating activities.” It is the Registered Entity that determines mitigating activities; the Regional Entity reviews and approves them. (Austin; LGC)	Revised text to delete statement that Regional Entity Compliance Staff must be capable and required to “make determinations of” Mitigation Plans and Mitigating Activities and added text to state that the Regional Entity Compliance Staff shall be capable of and required to review and accept Mitigation Plans and other Mitigating Activities.	Comments were correct and changes were made in response.
Section 401.11 – Added reference to “or other mitigating activities” after “mitigation plan.” This revision, which is made in a number of places throughout the ROP, reflects the fact that actions taken by a registered entity to correct and prevent recurrence of a non-compliance, while they are accepted by the CEA, are not always memorialized in a formal mitigation plan. Section 403.6 – Added reference to “mitigating activities” and changed reference to “remedial actions” to “remedial action directives.”	Sections 401.11.3, 403.6 The new term “mitigating activities” is not defined; it should be defined or deleted. (Austin; KCPL; LGC; TAPS) The summary of revisions that accompanied the posting provided the basis for a definition. (TAPS)	“Mitigating activities” will become a defined term: “actions taken by a Registered Entity to correct and prevent recurrence of a noncompliance, whether or not the actions are embodied in a Mitigation Plan.”	As noted in the outcome column, a new definition has been developed in response to the stakeholder comments.
Section 407.1 – Changed references to “remedial actions” to “remedial action directives” to reflect the context. In addition, the section is amended to provide that NERC will review penalties, sanctions and remedial action directives specified by a Regional Entity hearing body final decision, to determine if the determination is supported by a sufficient record, consistent with the <i>Sanction Guidelines</i> and other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and consistent with penalties, sanctions and remedial action directives imposed by the Regional Entity and by other Regional Entities for violations involving the same or similar facts and circumstances..	Section 407.1. The proposed new text stating that NERC shall review penalties, sanctions and remedial action directives that are specified in a Regional Entity Hearing Body decision should be deleted. (OEV)	No additional change.	In order to perform its oversight role of ensuring sufficiency and consistency in Penalty determinations for similar violations and among Regional Entities, it is necessary for NERC to review Penalties, sanctions and Remedial Action Directives determined by Regional Entity Hearing Bodies just as it reviews Penalties, sanctions and Remedial Action Directives determined by Compliance Enforcement Authority Staff.

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Section 409.3 & 409.4 – Changed to reflect that the Regional Entity may file an appeal of a Regional Entity hearing body decision, to specify that the Regional Entity shall file the entire record of the Regional Entity hearing body with the NERC director of enforcement, to specify that participants in the hearing body proceeding other than the appellant shall file their responses to the issues raised in the notice of appeal 35 days after the date of appeal (which will allow for at least a 14-day period after the record of the hearing body proceedings is filed with the NERC director of enforcement), and to provide that the appellant may file a reply to the responses within 7 days.	Section 409.3. If the provision allowing a Regional Entity to appeal a Regional Entity Hearing Body is retained, it should be revised to require the Regional Entity to provide copies of the record before the Hearing Body to all participants in that proceeding. (Austin; LPPC)	Sections 409.3 & 409.4 – The requirement that the Regional Entity must provide a copy of the record to the appellant is deleted, as all Participants should be expected to maintain their own copies of the record as it is compiled during the hearing.	Participants in the hearing process will already have record documents.
Section 412 – This new section sets forth the procedures by which the NERC BOTCC will accept or reject a question certified to the BOTCC by a Regional Entity hearing body (pursuant to §1.5.12 of the Hearing Procedures in Appendix 4C), and if the BOTCC decides to accept the certified question, the procedure for receiving argument from the participants on, and deciding, the question. Section 412.2 specifies that written decisions of the BOTCC on certified questions will be posted on the NERC web site, with redaction of the names of the participants and of any other information that is necessary to maintain the non-public nature of the Regional Entity hearing body proceeding.	<p>Section 412. Trades are concerned about this provision, which allows a Regional Entity Hearing Body to certify certain questions to the BOTCC, although Trades appreciates the changes that were made since the original posting. Trades do not understand the reasons for this provision and believe it should be deleted. (Trades; LGC)</p> <p>This provision for certification of questions to the BOTCC could subvert the Standards interpretation process. (KCPL)</p> <p>Also, it is unclear how decisions by the BOTCC on certified questions would apply to other entities that are not parties to the proceeding. (KCPL; LGC)</p> <p>This provision allowing for certified questions is not ready for filing as it requires greater interplay with other ROP provisions. This provision (i) could cause significant delays in the hearing process, and (ii) does not provide an opportunity for similarly-situated Regional Entities and Registered Entities to present their views to the BOTCC – this is particularly important if the certified question involves interpretation of a Standard. (CCC)</p> <p>Section 412 should either be deleted, or should state that a decision made via certification shall not be binding in any other matter. (OEV)</p>	In response to stakeholder comments, proposed Section 412.5 was revised to state that the BOTCC’s decision on a certified question shall only be applicable to the hearing from which the question was certified and the Participants in that hearing. In addition, it was revised to provide that, in order to certify a question to the NERC Board, the Hearing Body must determine that the question is “a significant question of law, policy or procedure the resolution of which may be determinative of the issues in the hearing in whole or in part and as to which there are other extraordinary circumstances that make prompt consideration of the question by the Compliance Committee appropriate.”	<p>These proposed new sections establish a procedure by which a question arising during a hearing before a Regional Entity Hearing Body on a disputed compliance matter can be certified to the NERC Board for decision and decided by the Board of Trustees Compliance Committee (BOTCC). This procedure will be similar to, and in significant part has been modeled on, the procedure available under the FERC Rules of Practice and Procedure, whereby a FERC Administrative Law Judge may certify a question arising during a FERC administrative hearing to the Commissioners for decision. A specific procedure of this type does not presently exist in the ROP. Based on experience, questions have arisen during Regional Entity hearings as to which it would have been useful to have the question certified to the BOTCC for decision prior to proceeding through the entire Regional Entity hearing process.</p> <p>During the two posting periods, stakeholders have expressed concerns over the proposal for a “certification of questions” procedure on several grounds, including that it can cause unwarranted delay and expense in the hearing process, particularly if the procedure is too readily available; that it may infringe on the standards development process if the BOTCC is asked to “interpret” the Reliability Standard that is the subject of the Alleged Violation; and that it was unclear as to whether the BOTCC’s decision on a</p>

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			certified question will be precedential and applicable to/binding on other Registered Entities and Regional Entities (and, if so, whether other entities should be allowed to participate in litigation of the certified question before the BOTCC). NERC staff believes the proposed ROP provisions being presented for approval have been revised through the development process to be responsive to stakeholder comments. First, only the Regional Entity Hearing Body may decide to certify a question to the NERC Board for decision. Second, to do so, the Hearing Body must determine that the question is “a significant question of law, policy or procedure the resolution of which may be determinative of the issues in the hearing in whole or in part and as to which there are other extraordinary circumstances that make prompt consideration of the question by the Compliance Committee appropriate.” (§412.1) Third, text in previous proposed versions that stated a permissible certified question could include a question of interpretation of a Reliability Standard has been deleted. Fourth, the BOTCC may decline to accept a certified question. Fifth, the following limitation on the decision of a certified question has been added: “The Compliance Committee’s decision, if any, on the certified question shall only be applicable to the hearing from which the question was certified and to the Participants in that hearing.”
Section 413 – This new section specifies that NERC shall review and process final decisions of Regional Entity hearing bodies concerning alleged violations, proposed penalties or sanctions, or proposed mitigation plans, that are not appealed to the BOTCC, as though the determination was made by the Regional Entity compliance program, and may require that the decision be modified by the Regional Entity, in accordance with sections 5.8, 5.9 and 6.5 of Appendix 4C.	Section 413. Several aspects of this provision need to be clarified. What does “NERC” refer to? – is this a review by NERC Staff or the BOTCC? This provision should not allow NERC to change a determination of, or increase a penalty determined by, a Regional Entity Hearing Body. (Trades; KCPL; LPPC; LGC) This provision should be deleted in its entirety; there should not be a NERC review of a “Regional Entity final decision.” (OEV)	No additional change.	This proposed new section specifies that NERC shall review and process final decisions of Regional Entity Hearing Bodies concerning Alleged Violations, proposed Penalties or sanctions, or proposed Mitigation Plans, that are not appealed by one or more of the parties to the BOTCC, as though the determination was made by the Regional Entity Compliance Program without a hearing; and that NERC may require that the decision be modified by the Regional Entity, in accordance with sections 5.8, 5.9 and 6.5 of

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			<p>Appendix 4C. In other words, under this provision, NERC will review final Regional Entity Hearing Body decisions determining (for example) whether a violation occurred, or the imposition of a Penalty for a violation, in the same manner that NERC reviews proposed dispositions of Alleged Violations and proposed Penalties determined by the Regional Entity Compliance Staff. Stakeholder concerns and objections regarding this provision were similar to the concerns raised with the “Regional Entity can appeal” provisions discussed above. However, NERC staff believes that in order to carry out its responsibility and perform its function of ensuring consistency in violation, Penalty and Mitigation Plan determinations for similar facts and circumstances and among Regional Entities, it is necessary for NERC to review determinations by Regional Entity Hearing Bodies concerning Alleged Violations, Penalties and Mitigation Plans just as it reviews violations, Penalties and Mitigation Plans determined or approved by Regional Entity Compliance Staffs. Further, as noted earlier, the Regional Entities enforce compliance with mandatory Reliability Standards solely through delegated authority from NERC as approved by Applicable Governmental Authorities; NERC has the ultimate responsibility for compliance enforcement. Therefore, it is appropriate that NERC should review, and if necessary require modifications to, Regional Entity Hearing Body determinations. Further, NERC’s ability to review a Regional Entity Hearing Body determination on a disputed compliance matter should not depend on whether or not one of the Participants in the hearing elects to take an appeal of the decision to NERC.</p> <p>On February 16, 2010, the Board of Trustees approved the Board of Trustees Compliance Committee Mandate which states, in part, that “The CC shall review all Notice of Penalty or</p>

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			Sanction, Settlement Agreement, and Remedial Action Directive documents and direct NERC staff to file with FERC and other governmental authorities or remand to the appropriate regional entity.”
Section 414 – This new section establishes procedures for review and decision by the NERC BOTCC of appeals of decisions of a Regional Entity hearing body to grant or deny a request for intervention in the Regional Entity hearing body proceeding. Addition of these procedures is needed due to the proposed amendment to §1.4.4 of the Hearing Procedures to allow the Regional Entity hearing body to grant requests to intervene in limited circumstances. New §414.5 recognizes that the BOTCC’s decision on the appeal may thereafter be appealed to FERC or to another ERO governmental authority having jurisdiction over the matter, in accordance with the authorities, rules and procedures of the ERO governmental authority.	Section 414. Objects to the proposed revision to allow a default denial of an appeal if the BOTCC neglects to render a written decision within 45 days – BOTCC should be required to issue a decision on the appeal, but should not be required to do so within 45 days (or within any other stated time period). (LGC)	No additional change.	This provision relates solely to appeals of Regional Entity Hearing Body decisions to allow/deny an entity to intervene in a hearing – no need to require the BOTCC to issue a written decision if it does not think the Regional Entity Hearing Body decision needs to be overturned. In addition, this is consistent with how the rehearing process at FERC works.
	Sections 414.3 and 414.4. These sections still refer to the NERC “director of compliance” even though the title has been changed elsewhere to “director of enforcement.” (ACES)	The title was changed to director of enforcement.	The director of enforcement was the intended reference.
	Capitalization of defined terms may be required in the following sections: 403.6 (remedial action directive), TOC section 407; 401.5.1.2; 401.7; 401.9; 402.6; 403.7.3; 407.1; 407.2; 501.1.3.1 (bulk power system, regional entity and registered entity); 601 (reliability standards and bulk power system). (Trades)	These have all been corrected.	The November 7 posting did not attempt to implement all the definitions and capitalization changes but these will be implemented in the final version submitted to the Board and FERC. Definition and capitalization changes were implemented comprehensively in the November 29 filing with FERC.
Section 500			
Section 501 – The second paragraph is revised for clarification to refer to certification of entities performing certain specified functions, rather than entities applying to be a RC, BA or TOP.	The revisions specifying that there will be certification for “those entities that perform some or all of the reliability functions of Reliability Coordinators, Transmission Operators and Balancing Authorities” expand the certification requirements boundlessly and should be rejected. If there is a reliability need for certification of additional entities, it has not been thoroughly vetted. (TAPS)	No additional change.	<p>This provision is triggered only if a Registered Entity that is an RC, BA or TOP chooses to delegate some or all of the tasks to a third party. Therefore, there is no boundless expansion. The reliability need arises because an entity performing some or all of the functions as an RC, BA or TOP must be certified as having the requisite tools and capabilities to take on those roles.</p> <p>The inclusion of entities that perform some or all of the reliability functions of an RC, TOP or BA is</p>

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			<p>needed because some Registered Entities may choose to delegate or contract reliability tasks and/or responsibility for compliance with specific Reliability Standards or Requirements to a third party. When such arrangements occur, the ERO needs to be able to conduct an appropriate Certification review of the third party's capabilities to perform the delegated certified functions on behalf of the Registered Entity that is registered for the certified functions.</p> <p>NERC encourages entities to consider Joint Registration Organization and Coordinated Functional Registration options to ensure roles and responsibilities are clearly identified.</p>
<p>Section 501.1.3.1 – This section is revised to provide greater specificity with respect to the effective date of an entity's registration, particularly in the case of registrations resulting from sales or transfers of BPS assets or from corporate reorganizations that result in a new legal entity owning BPS assets formerly owned by another registered entity. The effective date will be stated in NERC's notification of registration. Where the organization is being registered for the first time and its BPS facilities were not previously owned by another registered entity, the effective date of the registration will be the date agreed to by the entity to be registered and the applicable Regional Entity. Where the organization is being registered because it has acquired BPS facilities from a registered entity, or based on an internal restructuring or name change where the organization has been registered under a different entity name, the effective date of the registration will be the effective date of the transaction that results in the organization performing the reliability functions that require it to be registered.</p>	<p>Section 501.1.3.1. The last sentence in this subsection should be revised to read as follows: "The organization entity is responsible for compliance with all the reliability standards applicable to the functions for which it is registered from the effective date of the registration confirmed in the registration notification from NERC." (CCC)</p>	<p>Text was revised based on this comment.</p>	<p>These changes are made to clarify when a Registered Entity is considered to be included on the NERC Compliance Registry and subject to compliance with applicable Reliability Standards.</p>
<p>See above.</p>	<p>Section 501.1.3.1. The following text should be added to provide for situations where there is not agreement as to the effective date of registration: "In the event that the regional entity and the entity to be registered cannot agree upon the effective registration date, the regional entity shall have the authority to set this effective registration date that the regional entity deems appropriate for the reliability of the bulk electric system."</p>	<p>Text revised based on this comment -- A new second paragraph is added to §501.1.3.1 which specifies that if the Regional Entity and the entity to be registered cannot agree on the effective Registration date, NERC shall set an effective Registration date "that it determines to be appropriate for the reliability of the Bulk Power System." However, the effective date of Registration cannot be earlier than the date of</p>	<p>The added text was necessary to establish how the Registration effective date will be determined if there is not an agreement between the Regional Entity and the Registered Entity.</p>

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	(NPCC)	NERC's notification of the Registration date. This new provision is being added to provide a procedure for establishing the entity's effective Registration date when the entity and the Regional Entity cannot agree on the effective Registration date.	
See above.	Section 501.1.3.1. An organization's registration effective date should not change just because the organization changes its name. Revised 501.1.3.1 conflicts with Bulletin 2011-05, which more clearly defines registration dates for asset changes. The proposed new sentence that starts "Where the organization is being registered because it has acquired bulk power system facilities from a registered entity . . ." should be reworded based on Bulletin 2011-05. (SPP RE)	No additional change.	There is no conflict between the Bulletin and the revised language. The Bulletin provides that the entity is responsible for compliance with applicable Standards from the date it is registered.
See above.	Sections 501.1.3 and 501.1.3.1. These sections should be revised to read as follows: 1.3 NERC and the Regional Entities shall use the following rules for establishing and maintaining the NCR based on the registration criteria set forth in Appendix 5B <i>Statement of Compliance Registry Criteria</i> . 1.3.1 NERC shall notify each organization that it is on the NCR. NERC's notification shall state the effective date of the organization's registration for each function. Each organization is responsible for compliance with all the reliability standards applicable to the functions for which the organization is registered from the effective date of the registration for each function. (WECC)	No additional change. However, changes made to the last sentence of 501.1.3.1 are consistent with this comment.	See above.
See above.	NERC should add text to this section regarding the forced registration of an organization if the Regional Entity and the organization cannot agree on registration or the effective date of said registration. (CCC)	Text added in response to this comment as described above.	See above.
Section 501.2 – This section is amended to refer to the need for certification of RCs, TOPs and BAs and entities that perform some or all of the reliability functions of RCs, TOPs and BAs.	Section 501.2. This appears to say every Registered Entity that is party to a CFR or delegation agreement must be registered and	No additional change.	No specific change was proposed. See above.

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Additionally, reference to the NERC Provisional Certification Process is deleted, as that process is no longer needed and is being eliminated.	certified for the particular NERC function, no matter how many tasks the entity performs. Why can't this be handled through compliance rather than the certification process? (MISO)		
Section 502.2.2.7 – Revised to state that the Certification Team leader shall confirm that all Certification Team members have completed all required training prior to participation in the Certification evaluation. This change is based on a stakeholder comment on the November 7 posting.	A stakeholder commented on the November 7 posting that all Certification Team members should complete all required training prior to participation in the Certification evaluation.	In response to this comment, Section 502.2.2.7 was revised to state that the Certification Team leader shall confirm that all Certification Team members have completed all required training prior to participation in the Certification evaluation.	Changes were made in response to this comment. The language was revised to ensure that all Certification Team members have completed all required training prior to participation in the Certification evaluation.
Section 600			
Established the following: Except as necessary to obtain approval of the Rules of Procedure, the NERC Personnel Certification Governance Committee (PCGC) is the governing body that establishes the policies, sets fees, and monitors the performance of the Personnel Certification Program for system operators.	Sections 602.4 and 602.7. “Personnel certification governing body” should be changed to “Personnel Certification Governance Committee” since the PCGC is defined as the governing body in section 601. (ACES)	Changes made based on comment -- Section 602 –References to the “personnel Certification program governing body” are changed to the PCGC, which is identified in section 601 as the governing body.	The language was changed to PCGC as proposed in the comment.
None	In proposed ROP Appendix 2 (which is the subject of a separate posting and filing), references to Appendix 6 should be eliminated and replaced with references to section 600: Certification; Continuing Education Program Provider; Probation; Termination of Credential. (PCGC)	Changes were made in Appendix 2.	Changes were appropriate since Appendix 6, System Operator Certification Program Manual, is being deleted in its entirety and its substantive provisions are being moved into Section 600.
None	Also in proposed Appendix 2, a revision needs to be made to the definition of Continuing Education Hour. (PCGC)	Definition has been changed as requested.	This BOT package and the subsequent FERC filing include conforming changes to Appendix 2 as filed with FERC on November 29 2011 and Jan 25 2012.
Section 700			
	Can this section, on reliability readiness evaluations, be eliminated now? (Trades; NPCC)	No additional change.	Section 700 was not reviewed or subject to modification as part of the instant ROP revision effort nor were any changes to Section 700 proposed in the November 7 posting.
Section 800			
Sections 800 and Appendix 8 were updated and clarified. Sections 807 and 808 - Revised to provide for a more consistent use of terms in these sections including “major event” and “occurrences.” Similar revisions have been made in Appendix 8.	The proposed revisions to Section 800 and Appendix 8 should be withdrawn until all of the event analysis documents and standards are available for review as a package. The proposed changes do not resolve the tension between	Sections 807c and 808.3 are amended to state that where a Reliability Standard sets forth specific criteria and procedures for reporting BPS disturbances and events described in that Reliability Standard, Registered Entities subject	The proposed revised version of Appendix 8 posted in the November 7-December 22 posting drew significant stakeholder comment, with much of that comment pertaining not to specific provisions in revised Appendix 8, but rather to (i)

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<p>Section 807a - Revised to state that in responding to a major event, NERC will work with registered entities as well as with Regional Entities and Reliability Coordinators.</p> <p>Sections 807c and 808.3 - Amended to refer to NERC Reliability Standard EOP-004 which sets forth specific criteria and procedures for reporting BPS disturbances and events described in that standard, with which registered entities subject to EOP-004 must comply. These sections further state that BPS users, owners and operators shall also provide NERC and Regional Entities with such additional information they request as is necessary to enable them to carry out their responsibilities under these sections.</p> <p>Section 807e - Amended to provide that NERC will establish, maintain, and revise from time to time based on experience a manual setting forth procedures and protocols for communications and sharing and exchange of information between and among NERC, Regional Entities, governmental authorities, industry organizations, and BPS users, owners and operators, concerning the investigation and analysis of major events.</p> <p>Section 807f - Amended to reflect the revised title of Appendix 8.</p> <p>Section 807g - Amended to state that NERC will disseminate to the industry findings and recommendations of general applicability from event analyses, “through various means appropriate to the circumstances,” including in accordance with ROP §810. This revision will give NERC greater flexibility in determining and using the most effective means to disseminate information gained from event analyses to the industry.</p> <p>Section 808.2 – Amended with a similar amendment to §807g as described immediately above.</p>	<p>learning from event analysis and CMEP activities. It is not clear how the various event analysis documents relate to each other. (Trades; Constellation)</p> <p>Revised Section 800 appears to direct NERC to conduct a CI for Major Events. NERC should make explicit the reasons why certain Major Events require a CI. (CCC)</p> <p>References in section 800 to major events and “correlative information with Appendix 8” are too vague for inclusion. Rules, procedures and rights in the Event Analysis Process should be outlined in “this document” [This appears to refer to the ERO Event Analysis Process] to ensure industry participants understand how these types of occurrences will proceed and what actions are available to each party. (KCPL)</p> <p>Section 807. The reference to major events is vague and should include a reference to the document or location on how to determine what defines a major event. This list should be part of EOP-004. (SERC OC)</p> <p>Sections 807c and 808.3. These sections reference Standard EOP-004. This Standard is currently undergoing revision, therefore, it is inadvisable to refer to it in the ROP until the revisions are completed. (ACES) In fact, EOP-004-2 failed the initial ballot, and many of the comments stated that the proposed Standard does not synch with the proposed Event Analysis Process requirements. (Trades)</p> <p>Adding the reference to EOP-004 in sections 807 c and 808.3 is not necessary because EOP-004 already contains the reporting requirement. (Austin; CCC)</p> <p>Section 807c when combined with other changes appears to codify a process to penalize entities for</p>	<p>to the Reliability Standard must report information as required by the Reliability Standard. These sections further state that BPS users, owners and operators shall also provide NERC and Regional Entities with such additional information they request as is necessary to enable them to carry out their responsibilities under these sections. The specific reference to EOP-004 has been deleted.</p> <p>Section 807d is revised to delete “some” before “NERC analyses,” as potentially unduly limiting.</p> <p>An <i>ERO Event Analysis Process</i> document is being submitted to the Board for approval. No changes are being made to Appendix 8 at this time; rather, revisions will be addressed at a later time.</p>	<p>the relationship between Appendix 8 and the new <i>ERO Event Analysis Process</i> document, and (ii) the respective levels of detail and subject matter content of these two documents. Because of the nature of these comments, NERC staff is not presenting a revised version of Appendix 8 for Board approval at this time.</p>

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	<p>not providing data to NERC in whatever format it desires on whatever timeline it chooses; enforcement is now the primary reason for event analysis. (MISO)</p> <p>Section 807e. The manual referred to in the new text should be subject to stakeholder review through the Standards process. (Austin; LGC) [Note: This is intended to refer to the Event Analysis Process document.]</p> <p>Section 807f. There should be a better description of the relationships among Appendix 8, Standard EOP-004 and the ERO Event Analysis Process document. (SERC OC)</p> <p>Section 807g. The meaning of what is to be released in this section and what protection an entity might have from the release of confidential information is unclear. (SERC OC)</p> <p>Section 808. Although the changes to this section are acceptable for the purpose of gaining industry participation in the self-analysis of off-normal occurrences, the current ROP already gives NERC and the Regional Entities the authority to request that Registered Entities provide the necessary data to carry out their role under Section 808. (FRCC)</p> <p>There should be additional clarity on how entities determine what are non-major events; this list should be part of EOP-004. (SERC OC)</p>		
Section 1000			
<p>Added the following to transition tool administration to the industry and other vendors:</p> <p>NERC will work with the industry to identify new tools, collaboratively develop requirements, support development, provide an incubation period, and at the end of that period, transition the tool or service to another group or owner for long term operation of the tool or provision of the service</p>	<p>Section 1002. Concern expressed over the proposed removal of references to specific tools that NERC will provide for the benefit of RCs and other system operators, particularly tools that are required to maintain compliance with specific Standards. The tools currently listed in section 1002 should continue to be listed. (LGC)</p>	<p>No additional change.</p>	<p>NERC has updated its listing of tools with a generic reference in anticipation of NERC transitioning tools and services to another group or owner for long term operation of the tools or provision of the services.</p> <p>Section 1002 has been amended to state NERC's new policy regarding maintenance and financial support of existing and potential new reliability tools and support services. NERC will work with</p>

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			industry to identify new tools, collaboratively develop requirements, support development, provide an incubation period, and at the end of that period transition the tool or service to another group or owner for long term operation of the tool or provision of the service. NERC may also develop reliability tools on its own, but will consult with industry concerning the need for the tool prior to development. Tools and services being maintained by NERC as of January 1, 2012 will be reviewed and, as warranted, transitioned to an appropriate industry group or organization.
See above	The revised section says NERC will not operate or develop tools, except when it does. The entire section could be deleted and the development and offloading of tools handled outside the ROP. (MISO)	No additional change.	NERC may also develop reliability tools on its own, but will consult with industry and others concerning the need for the tool prior to development. Tools and services being maintained by NERC as of January 1, 2012 will be reviewed and, as warranted, transitioned to an appropriate industry group or organization.
See above	The transition away from NERC managing these tools is not defined and could be problematic across all three Interconnections; for example, the NERC IDC is the only tool available for Registered Entities to comply with EOP-005-1, R11.3. (SERC OC)	No additional change.	Implementation, schedule, and other transition details regarding the transitioning tools and services to another group or owner for long term operation of the tools or provision of the services, will be documented as necessary in the appropriate process and procedure documents external to the ROP.
Section 1400			
Modified “Proposals for Amendment or Repeal of Rules of Procedure,” to require fifty members to amend or repeal the rules of procedure.	Rather than this section being amended to increase the number of NERC Members required to propose an amendment to the ROP, the NERC Bylaws should be amended to reduce the number of NERC Members required to propose an amendment to the ROP. (Trades; CCC; KCPL)	No change to the proposed revision has been made.	In the November 7 posting, NERC proposed to amend ROP §1401 to change the number of Members needed to request an amendment or repeal of the ROP from ten Members to 50 Members. This change was proposed because Article XI, section 2 of the NERC Bylaws states that 50 Members are needed to request an amendment or repeal of the ROP. Stakeholders commented that the required number of Members should be ten as specified in ROP §1401, not 50 as specified in the Bylaws. Regarding the change to the number of Corporation members who can request a rule

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			<p>change, the change is being made to track the Bylaws, as originally intended by NERC. There exist several avenues by which a rule change can be proposed:</p> <p>“Proposals to adopt new Rules of Procedure or to amend or repeal existing Rules of Procedure may be submitted by (i) the Member Representatives Committee, (ii) any fifty (50) members of the Corporation, which number shall include members in at least three sectors, (iii) a committee of the Corporation to whose purpose and functions the Rule of Procedure pertains, or (iv) an officer of the Corporation.”</p> <p>At the time NERC drafted the Bylaws, NERC intentionally chose 50 members to request an amendment to the rules as a matter of sound governance. It serves to screen out possible changes that have little support and cannot otherwise obtain the support of the MRC, NERC staff, or a relevant NERC committee.</p>
See above	Objects to increasing the number of NERC Members required to propose an amendment to the ROP to 50. (Austin; LGC; MISO)	See above.	See above.
Section 1500			
None	<p>Section 1500 should be broadened so that its confidentiality obligations automatically attach to intervenors in enforcement proceedings under CMEP section 5.11; this would eliminate the need for individual confidentiality agreements for participants in enforcement proceedings pursuant to section 5.11 (RFC)</p> <p>[Note: RFC also proposes to limit participation in enforcement proceedings pursuant to CMEP section 5.11 to Registered Entities.]</p>	No additional change.	<p>Proposed new Section 5.11 of Appendix 4C is not limited to Registered Entities and may encompass entities other than owners, operators and users of the Bulk Power System. Section 1500 provides that an owner, operator, or user of the bulk power system and any other party shall mark as confidential any information that it submits to NERC or a regional entity that it reasonably believes contains confidential information. While the confidentiality obligation in Section 1500 may automatically attach, in proceedings pursuant to Appendix 4C section 5.11, individual confidentiality agreements are still warranted to protect confidential information not specified under section 1500 and in the event the</p>

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			participants include one or more entities that are not Registered Entities.
Appendix 4B			
None	All cross-references among Appendix 4B, 4C and the ROP should be checked for consistency and accuracy. (Trades)	Yes.	NERC agrees. No specific instances of erroneous references were provided.
Section 1.1.27 (renumbered) – Remedial Action Directive – revised to state that a Remedial Action Directive is immediately necessary to protect the reliability of the Bulk Power System from an imminent or actual threat.	Appendix 4B should clarify that “remedial actions” mandated by NERC or a Regional Entity will be treated in the same manner as other enforcement actions. (OEV)	No additional change.	NERC or Regional Entity mandates will be enforced in accordance with the ROP.
Modified the referenced section (2.6) to consider the size of an organization with respect to the, “Relation of the Penalty to the Seriousness of the Violation and Violator’s Ability to Pay”	Section 2.5 (The comment appears to have been directed to section 2.6). The revisions will significantly, negatively impact the application of the analysis (concerning multiple violations) to ISO/RTOs who operate a large portion of the BES and may be considered as “large” in size despite their non-profit status and uniform inability to directly pay penalty costs. (MISO)	No additional change.	Similarly to the Commission’s Revised Statement on Penalty Guidelines, size is determined by multiple factors that might vary depending on the organization. However, size is an important factor in the assessment of the seriousness of the violation. Note: The comment refers to section 2.5 of Appendix 4C, but it appears to be directed at (renumbered) section 2.6 of Appendix 4B.
See above	Section 2.6. Section 2.6 on size of violator is based on significant directives from FERC and should be left in its current form. (TAPS)	No additional change.	See above.
The provision in Appendix 4B on settlement requests was deleted.	Section 3.1. Why is text being deleted that outlines steps to initiate settlement? (MISO)	No additional change.	Appendix 4C sets forth the steps for initiating settlement. Appendix 4B addresses how Penalties are determined, not the process for settlement negotiations, so this language is not needed in Appendix 4B. Appendix 4B continues to recognize that entities may enter into Settlements with the Compliance Enforcement Authority.
Minor edits to the Violation Risk Factor and Violation Severity Level sections; no edits were made with respect to how to apply specific VRF/VSLs based on specific facts and circumstances.	Section 3.1.1. This section does not address what is the appropriate VRF when there are different VRFs assigned across requirements and the underlying requirements, or when there are changes in the VRF across revisions. (SPP RE) Section 3.1.2. “It is unclear how to assign a VSL when the described VSLs do not apply to the violation’s facts and circumstances.” (SPP RE)	No additional change.	The proposed revisions to Appendix 4B in the November 7 posting did not include substantive changes on these topics. NERC or the Regional Entity will determine an initial value range for the Base Penalty Amount by considering the VRF of the requirement violated and the Violation Severity Level VSL assessed for the violation. Details regarding specific applications are not

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			included in the ROP; rather determinations are made by appropriate NERC and Regional Entity processes.
Added “internal compliance program” and “culture of compliance” to Setting of the Base Penalty Amount – First Violation section as factors for whether \$0 penalty or excusing of the penalty relief will be granted.	Section 3.2.2. To be consistent with FFT concept, this section should not be limited just to first violations, but should apply to violations that are eligible for FFT. (SPP RE).	No additional change was made in response to this comment; however, an additional change was made to this section.	Section 3.2.2 describes First Violations. The section does not limit treatment of FFT candidates.
In renumbered §3.2.2, which discusses how the fact that a violation is a registered entity’s first violation will be considered in determining (reducing or excusing) the Base Penalty Amount, text has been added to provide that this relief generally will not be afforded if NERC or the regional entity determines the violator has a poor internal compliance program or culture of compliance (as well as a poor compliance record, as stated in the existing text).	Section 3.2.2. The reference to “internal compliance programs” should be eliminated; otherwise, it will elevate having an ICP to be a requirement and will be costly and burdensome on smaller entities. (SPP RE)	Text revised to say “determines that the violator has a poor internal compliance program or there is other evidence of a poor culture of compliance or compliance record.”	Internal Compliance Programs are not required, but are strongly encouraged, and are one way for the Registered Entity to provide evidence that it has a strong culture of compliance, which will be considered in Penalty determinations. In turn, no ICP or a poor ICP is evidence of a poor culture of compliance. Reliability is furthered when an entity has an effective compliance monitoring program that identifies and prevents noncompliance with mandatory and effective Reliability Standards. Moreover, the section provides that Penalty relief will generally not be available. It does not state that it will never be available, as does the next paragraph when an entity conceals or attempts to conceal a violation, refuses to comply with compliance directives or intentionally violates a Reliability Standard in certain circumstances.
Modified the term violation reset time period to the following two terms: “reset period” or “reset time frame” and corresponding definition.	Section 3.3.1. The concept behind the reset period is appropriate, however, application of violation history in aggravating a penalty could be more appropriately addressed with a statute of limitations rather than relying on the reset periods in Standards. (SPP RE)	No additional change.	In renumbered §3.3.1, the term “violation reset time period” has been changed to “reset period or reset time frame,” as these are the terms used in several Reliability Standards. The concept of a “statute of limitations” was not a proposed change in the Nov 7 posting.
Renumbered §3.3.7, retitled “Violation Concealment and Responsiveness,” has been revised to state that NERC or the Regional Entity shall consider an increase to the Penalty if NERC or the Regional Entity determines, based on its review of the facts, that the violator resisted or impeded the discovery and review of a violation. The text has been revised to state that the	Sections 3.3.7 and 3.3.8. The proposed revision requiring doubling of penalties is unwarranted and unreasonable. The change “opens the door to prosecutorial abuse’ because all the CEA has to do is threaten lack of cooperation (and thereby a doubling of the sanction) during an investigation	In response to this comment, added proviso to the referenced text that “NERC or the Regional Entity will determine the actual increase to the Penalty based on the particular facts and circumstances of the violation.”	Renumbered §3.3.7, retitled “Violation Concealment and Responsiveness,” has been revised to state that NERC or the regional entity shall consider an increase to the penalty if NERC or the regional entity determines, based on its review of the facts, that the violator resisted or

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presumption in a case where the violator concealed or attempted to conceal the violation is to double the Penalty.	or settlement to bring “undue influence.” The presumption of doubled sanctions under certain circumstances is unreasonable; any “multiplier” should be left to the discretion of the entity assessing the penalty based on the facts and circumstances of each instance. (MISO)		impeded the discovery and review of a violation. The reference to “doubling” the penalty is in the current FERC-approved version of the ROP as a suggestion in certain circumstances. Further, doubling is only a presumption, not a requirement. The language was revised in response to this comment to state that while there would be a presumption to double a penalty, NERC and Regional Entities will determine the actual penalty based on the particular facts and circumstances.
Determination of Non-Monetary Sanctions section was modified as follows: The imposition of sanctions is not limited to monetary penalties. Non-monetary sanctions may be applied with the objective of promoting reliability and compliance with the reliability standards. Non-monetary sanctions may include limiting activities, functions, or operations, or placing the violator on a reliability watch list of significant violators.	Section 4. NERC should amend this section to encourage the proposal and satisfaction of non-monetary sanctions that are intended and targeted to achieve the mutual goals of a reliable, secure BES. (MISO) [Note: No specific revisions proposed.]	No additional change.	The NERC sanction guidelines afford flexibility to the Compliance Enforcement Authority and include the imposition of non-monetary sanctions and zero-dollar penalties.
Appendix 4C			
None.	Some definitions in Appendix 4C are inconsistent with definitions in new Appendix 2 (e.g., Confirmed Violation; Mitigation Plan) (Trades)	Definitions in Appendix 2 and in individual Appendices have been checked for consistency and revised where needed.	Inconsistency issues have been addressed.
Section 1.1.9 – Confirmed Violation – the definition has been expanded to more comprehensively capture the circumstances that constitute a “Confirmed Violation,” based on experience, and will include execution of a settlement agreement.	Section 1.1.9 (definition of Confirmed Violation). Objections to the change that include in “Confirmed Violation” a settlement agreement where the Registered Entity has not admitted or contested the Alleged Violation. (Trades; Austin; LGC; OEV) If the objective is to apply the definition of “Confirmed Violation” to circumstances where an entity neither admits nor denies a violation but resolves it through settlement, a new term such as “Contested Violation” or “Resolved NOP” should be created. (MISO; OEV)	No additional change was made in response to this comment; however, some additional changes were made to this definition as discussed above.	As discussed above, the point of the definition is that the violation has reached an end state of processing, regardless of whether the Registered Entity admits it or neither admits nor denies it.

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See above.	<p>The following text should be added to the end of the revised definition of “Confirmed Violation”: “. . . that is the subject of the settlement agreement.” (CCC)</p> <p>In clause (4) of section 1.1.9 (“Confirmed Violation”), the text “Registered Entity has entered into a settlement agreement” should be changed to “Registered Entity has executed a settlement agreement pursuant to section 5.6.” (OEV)</p>	First change was not made as it was subsumed by other changes. Second change was made.	The change was made because it reflects the fact that a violation has reached an end state of processing, regardless of whether the Registered Entity admits it or neither admits nor denies it.
Section 1.20 (renumbered) – Notice of Penalty – added the phrase Notice “or other notification” of Confirmed Violation to reflect that Regional Entities may sometimes provide notice of a Confirmed Violation through a means of notification other than a Notice of Confirmed Violation.	Section 1.1.19 (definition of Notice of Penalty). The reference to “or other notification” is vague and should be clarified or deleted. (Trades)	No additional change.	Added “notification” to reflect that the CEA may give notification of the Confirmed Violation through means other than issuing a “Notice of Confirmed Violation.” The reference to “other notification” would include, for example, the FFT opt out letter.
New definition.	Section 1.1.24 (definition of Public Notification List). This definition should be eliminated because section 5.11 should be eliminated. (MISO)	Eliminated.	The proposed Public Notification List requirement has been eliminated from Appendix 4C Section 5.11; therefore, the definition has been deleted.
Section 1.1.30 (renumbered) – Self-Report – (1) The defined term is changed from Self-Reporting to Self-Report (this revision is made throughout the document). (2) Definition is revised to provide that the Self-Report may state that the Registered Entity believes it has, or may have, violated a Reliability Standard. This will enable a Registered Entity to submit a Self-Report without having to conclude that it has violated a Reliability Standard. (3) The provision that the Self-Report should state the actions that have been taken or will be taken to resolve the violation is deleted; this requirement could delay submission of a Self-Report while the Registered Entity determines what actions are to be taken.	Section 1.1.30. (definition of Self-Report). The proposed insertion of “or may have” should be deleted because it is ambiguous and conflicts with the definition of Self-Report in section 3.5. There are no benchmarks provided for determining when a Registered Entity “may have” violated a Reliability Standard. (OEV)	No additional change.	“Or may have” was added in response to a stakeholder comment on the earlier (July 1-Aug 15) posting that an entity should be able to file a Self-Report even though it has not concluded that it definitely violated a Standard. For clarification, and in response to stakeholder comments, this change is not intended to <u>require</u> a Registered Entity to submit a Self-Report whenever it believes it may have, but is not certain, that it has violated a Reliability Standard.
Section 1.1.31 (renumbered) – Spot Check – (1) The defined term is changed from Spot Checking to Spot Check (this revision is made throughout the document). (2) In the third basis stated in the definition on which a Spot Check may be initiated, reference to “events, as described in the Reliability Standard” is deleted and “risk-based assessments” is added. The addition is consistent with NERC’s developing risk-based assessment approach to determining the frequency with which to conduct compliance monitoring activities.	Section 1.31 (definition of Spot Check). Given “the uncertainty and delay associated with risk-based assessment”, the revision to this definition to add reference to risk-based assessment should be withdrawn until such processes and/or assessments are developed as part of the CMEP. (MISO)	The proposed risk based assessment text was deleted as unnecessary at this time given the current FERC-approved ROP and FERC Policy Statements and orders that provide this flexibility already to NERC and the Regional Entities.	<p>The proposed risk based assessment text was deleted as unnecessary at this time given the current FERC-approved ROP and FERC Policy Statements and orders that provide this flexibility already to NERC and the Regional Entities.</p> <p>Since the effective date of the ROP, NERC and Regional Entities have been evaluating risks to the reliability of the Bulk Power System taking into account the Registered Entity’s Bulk Power System Facilities and operations and their</p>

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			<p>significance to the reliability of the Bulk Power System and the Registered Entity’s compliance history and internal compliance program or other indicators of its culture of compliance. These reviews take into account prior pronouncements of FERC in its Policy Statements and orders and the current, FERC-approved ROP</p> <p>Efforts are underway to allow interested industry stakeholders to provide input into factors to be considered in evaluating the Registered Entity’s Bulk Power System Facilities and operations and their significance to the reliability of the Bulk Power System and the Registered Entity’s compliance history and internal compliance program or other indicators of its culture of compliance.</p>
	<p>Section 3.0. Objects to text giving the CEA authority to collect documents, data and information in the manner it deems most appropriate, including removing documents, data and information from the Registered Entity’s location. (LGC; OEV)</p> <p>This provision is “heavy-handed” and the need for it has not been shown. Also, the removal of documents may hamper the Registered Entity’s ability to respond to later data requests. (MISO)</p> <p>The caveats that the information must conform to security procedures and other safeguards as appropriate is insufficient; NERC only has authority to collect documents, data and information necessary to establish and enforce reliability standards. (OEV)</p>	<p>Text is added to state that the CEA has authority to collect Documents, data and information in the manner it deems most appropriate, including <u>requesting that copies be made</u> of Documents, data and information and <u>removing those copies</u> from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain.</p>	<p>ROP sections 403.10, 403.10.1, 403.10.2, 403.10.3 already provide NERC and the Regional Entity authority to request and obtain information for purpose of compliance monitoring and enforcement. This change is made to clarify the rights and responsibilities of entities in responding to requests for data, documents and information. It does not preclude an opportunity for a registered entity to discuss acceptable alternative formats with the Compliance Enforcement Authority to the extent necessary. It takes into account the provisions of Section 1500 of the ROP regarding confidential information. However, as noted, additional changes have been made in response to stakeholder comments that the CEA should not be allowed to remove original documents, or the Registered Entity’s only, existing copies, from the Registered Entity’s site.</p>
	<p>Section 3.0. Wasn’t the ROP going to be updated to include the ability for the CEA to initiate a violation even if not discovered through one of the seven formal discovery methods? We do not see this update. (SPP RE)</p>	<p>The change was made.</p>	<p>The change is in the second paragraph of section 3.0.</p>

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Section 3.1 – Compliance Audits – Revised to state that Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, are examples of professional auditing standards on which Compliance Audit processes for Compliance Audits in the U.S. should be based.	Section 3.1. The revision to state that Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, or standards sanctioned by the Institute of Internal Auditors, are “examples” should be rejected; the text should continue to state that the audits will be conducted based on these sets of auditing standards.	No additional change.	The CEA is not subject to, and is not required to use, these standards; however, the CEA can use them as well as others.
Section 3.1.4.1 – Reliability Standards – Revised to clarify that a Compliance Audit may include other standards applicable to the Registered Entity, that are not identified in the NERC Implementation Plan, whether or not the other standards are identified in the Regional Entity’s Implementation Plan.	Section 3.1.4.1 (Compliance Audits). Objects to the provision that allows a Compliance Audit to be expanded beyond its stated scope, without some reasonable cause. The scope of the Compliance Audit should be limited to those Standards for which the Registered Entity was specifically notified in advance of the audit. (Trades)	No additional change.	The <u>current</u> provision does not support the commenter’s proposed outcome – current text says an audit can cover any standard listed in the NERC Annual Implementation Plan or the Regional Implementation Plan. In addition, the current, FERC-approved language states that: “The Compliance Audit may include any other Reliability Standards that are applicable to the Registered Entity.”
Section 3.1.4.2 – Period Covered – (1) Revised to emphasize that the Registered Entity’s data and information must show compliance with the standards being audited for the entire period covered by the Compliance Audit. (2) Text is added to state that the CEA will indicate the beginning and End Date of the audit period in its notice of the Compliance Audit. (3) Revised to state that the start of the audit period will be the End Date of the previous Compliance Audit (which may be a different date than the last day of the previous Compliance Audit). (4) The existing second sentence of this section, concerning modification of the audit period, is deleted and replaced with a more straightforward sentence (“The Compliance Enforcement Authority may modify the beginning date of the audit period for any given Reliability Standard requirement based on an intervening compliance monitoring process.”). (5) Text is revised to state that the End Date may be a predetermined specific date or may be stated generally as the last day of the Compliance Audit.	Section 3.1.4.2. (Compliance Audits – period covered). The last sentence (“However, in such cases, the Compliance Enforcement Authority will require the Registered Entity to demonstrate compliance through other means”) should be deleted (with the result that the Registered Entity would not be required to demonstrate compliance for a longer historic period than the document retention period specified in the Standard). (Trades; Austin; Constellation)	No additional change.	NERC is not proposing to change the sentence quoted in the comment – it is the current FERC-approved text.
See above.	Section 3.1.4.2 A sentence should be added, “The beginning date of a Compliance Audit will not be before the end date of the prior Compliance Audit.” (Austin)	No additional change in response to this comment.	This section was revised in response to other stakeholder comments.
See above.	Section 3.1.4.2. The end date of the Compliance Audit period should not be the last day of the audit; it is a significant administrative burden to	Text is revised to state that the End Date should be a specified date prior to the scheduled start of the Compliance Audit, such	Changes have been made in response to this stakeholder comment.

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	have auditors auditing compliance in real time. The end date should be the date the Registered Entity receives the formal notification of the audit. (TAPS)	as the date of the notification of the Compliance Audit issued by the CEA or the date that is thirty days following the date of the notification. This revision is being made in response to stakeholder comments that making the End Date the last day of the Compliance Audit made it difficult for the Registered Entity to compile and provide evidence of compliance for the entire audit period through the End Date. In conjunction with the preceding revision, however, text is added to specify that if the Compliance Audit team discovers a potential noncompliance occurring subsequent to the End Date, the potential noncompliance will be subject to a Preliminary Screen pursuant to Section 3.8 (which may then result in the potential noncompliance becoming a Possible Violation and being entered into the enforcement process).	
Section 3.1.5.1 – Composition of Compliance Audit Teams – (1) Revised to state that the audit team will be comprised of members who the CEA has determined to have the requisite knowledge, training, and skills to conduct the Compliance Audit. (2) Revised to clarify who may be included on Compliance Audit teams, in addition to staff of the Regional Entity: (i) contractors and industry subject matter experts, (ii) NERC staff members (which may include contractors to NERC), (iii) compliance staff members of other Regional Entities, and (iv) representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity.	Section 3.1.5.1. This section should be revised to clarify whether and when FERC staff can be members of an audit team or observers. FERC Staff should be allowed to participate as observers, but not as audit team members, since FERC has its own independent audit authority. (Trades)	No additional change.	FERC would reject such a change that purported to limit its participation.
	Section 3.1.5.1. Entities being audited are entitled to know in what role NERC staff will be participating in or observing a Compliance Audit. (Trades)	Per 3.1.1, the Registered Entity gets a list of the audit team members. All others are “observers.” This has been clarified by addition of a sentence in 3.1.5.3.	Section 3.1.5.3 has been further revised to state that any members of NERC staff, Regional Entity Compliance Staff, or Compliance Staffs of other Regional Entities or representatives of FERC or other Applicable Governmental Authorities who are not Compliance Audit team members identified pursuant to Section 3.1.1 are observers.
	Section 3.1.5.1. For a Registered Entity registered in only one Region, why should the Compliance Audit team be allowed to include staff members from other Regional Entities? (Trades)	No additional change.	It is appropriate for staff members from other Regional Entities to participate on a Compliance Audit team for a registered entity not in its region to provide expertise and/or manpower that the “host” Region may not have, or for training.

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	Section 3.1.5.1. It is a conflict of interest to have an agency [FERC] that is the final arbiter of appeals to be making initial allegations of non-compliance. Further, FERC staff may now be participating as observers in audits to develop a basis for an audit of the same entity to be conducted by FERC. (MISO) [Note: Apparently MISO thinks FERC staff should not be allowed to be members of an audit team.]	No additional change.	The extent of FERC’s authority is beyond the scope of the ROP changes. FERC would reject any change that purported to prohibit FERC participation in Compliance Audits.
Section 3.1.5.2 – Requirements for Compliance Audit Team Members – (1) First bullet is revised to state that audit team members must be free of conflicts of interest “in accordance with Compliance Enforcement Authority policies.” (2) Fourth bullet is revised to eliminate the requirement that the CEA provide to the Registered Entity copies of the confidentiality agreements or acknowledgements executed by the audit team members; instead, the CEA will provide confirmation to the Registered Entity that all audit team members have executed confidentiality agreements or acknowledgements.	Section 3.1.5.2. In the first bullet, insert “the” before “Compliance Enforcement Authority” to clarify that NERC and the Regional Entity may have different policies. (SPP RE)	First bullet is revised to state that audit team members must be free of conflicts of interest “in accordance with the Compliance Enforcement Authority policies.”	The change was made in response to the stakeholder comment on the November 7 posting.
Section 3.1.5.3 – Compliance Audit Observers and Other Attendees – Revised to clarify the distinctions between audit team members (§3.1.5.1), observers, and attendees. The first paragraph is amended to specify that the following may participate as observers: NERC staff; other members of the Regional Entity’s compliance staff; with the Regional Entity’s permission, compliance staff members of other Regional Entities; and representatives of FERC and of other Applicable Governmental Entities that have reliability jurisdiction with respect to the Registered Entity. The second paragraph, which is not being revised (and was approved by the Commission in its October 7, 2011 Order) states who may be attendees at the audit. A new third paragraph has been added to state that “Compliance Audit observers and attendees are not audit team members and do not participate in conducting the Compliance Audit or in making audit findings and determinations.”	Section 3.1.5.3. Permission of both the Registered Entity and the Regional Entity should be required to consent to participation by staff members from other Regional Entities as observers. (Trades)	No additional change.	This is a matter subject to the host Regional Entity’s discretion. There are mechanisms to address specific concerns regarding conflicts of interest.
Section 3.1.6 – Compliance Audit Reports – (1) In the second line, “evidence of possible noncompliance” is changed to “evidence of potential noncompliance” to avoid confusion with the defined term “Possible Violation.” (2) In the first paragraph, the phrase “other mitigating activities” is added to “Mitigation Plan,” as not all actions taken by Registered Entities to correct a noncompliance and prevent recurrence are memorialized in formal Mitigation Plans. (3) The first paragraph is also revised to	Section 3.1.6. The reason for the change in terminology from “possible noncompliance” to “potential noncompliance” is unclear and needs to be explained. (Trades)	No additional change.	The use of the term potential noncompliance is to avoid confusion with the defined term “Possible Violation.” The term potential noncompliance also appears in the FERC-approved definition of Preliminary Screen which is used to determine if there is a Possible Violation.

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state that the audit report may also state areas of concern and recommendations identified by the audit team (rather than specifying that any recommendations of the audit team be provided in a separate document). (4) In the second paragraph, the first sentence is revised to specify that the CEA will provide the final audit report to the Registered Entity on or before the date the report is provided to NERC. (5) Text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text on this topic is provided.			
	Section 3.1.6. The existing text stating that recommendations by the audit team should be considered nonbinding, should not be deleted. (Austin; KCPL; LGC) In addition, the provision that recommendations from the audit team will be made in a separate document should not be deleted. The audit report should be limited to audit findings. (KCPL; LGC)	No additional change.	This change is a streamlining and simplification move. It allows for one document rather than two to be produced. Further, it will facilitate tracking of the recommendations. In addition, recommendations are made to identify actions or omissions that will benefit reliability of the Bulk Power System.
Section 3.2.1 – Self-Certification Process Steps – (1) The first step is revised to specify that the posted reporting schedule should include the applicable reporting periods. (2) The first step is also revised to specify that NERC, along with the CEA, will be responsible to ensure that the appropriate standards, compliance procedures and submittal forms are maintained and available (which may be through a means other than electronic). (3) Consistent with the revised definition of Self-Certification (§1.1.29), the third step is revised to list the four possible responses in a Self-Certification. (4) The fourth step is revised to state that, at a minimum, the CEA will review Self-Certifications of non-compliance and Self-Certifications stating that the Registered Entity does not own facilities that are subject to the Reliability Standard requirement or that the requirement is not applicable to the Registered Entity. (5) The fifth step is revised to state that if the CEA identifies a potential noncompliance, the CEA conducts a Preliminary Screen. (6) A paragraph is added stating that receipt of a Self-Certification by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, or not subject to, the Reliability Standard requirement. This additional text is intended to negate the assumption that if a CEA makes no further response to a Registered Entity concerning a Self-Certification,	Section 3.2.1. If the deletion of the word “electronically” is intended to allow forms to be available in hard copy instead of in electronic form, it should be rejected. (TAPS)	No additional change.	Removal of the term electronically is intended to ensure flexibility in the use of available technologies. It does not reflect an intent to move to hard copy only.

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the CEA has determined that the Registered Entity is compliant with the Reliability Standard requirement.			
	Section 3.2.1. In the sentence that receipt of a Self-Certification shall not be construed as a finding by the CEA that the Registered Entity “is compliant with, not compliant with, or not subject to, the Reliability Standard requirement, “is subject to” should be added before “not subject to.” (TAPS)	”The phrase “is subject to” is added per the comment.	Additional text is added in response to the stakeholder comment.
Section 3.3 – Spot Check – (1) Revised to state that a Spot Check may be initiated at the discretion of the CEA or as directed by NERC, including on a random schedule. The list of potential reasons is revised to include risk-based assessments based on the Registered Entity’s BPS facilities and operations and their significance to the reliability of the BPS and the Registered Entity’s compliance history and internal compliance program or other indicators of its culture of compliance. This addition is consistent with NERC’s developing program of using risk-based assessments to determine when additional compliance monitoring processes should be initiated, and the scope of the compliance monitoring processes conducted, with respect to a Registered Entity.	Section 3.3. (Spot Checks). More clarification and transparency is needed for the provision that Spot Checks will be based on “risk-based assessment based on the Registered Entity’s Bulk Power System facilities and operations and their significance to the [BPS].” At the November BOT meeting, CEO Cauley committed to make the criteria for these assessments more transparent and to seek stakeholder input. The ROP should not reflect use of risk-based assessments “until this commitment is fulfilled.” (Trades)	The proposed risk based assessment text was deleted as unnecessary at this time given the current FERC-approved ROP and FERC Policy Statements and orders that provide this flexibility already to NERC and the Regional Entities.	<p>The proposed risk based assessment text was deleted as unnecessary at this time given the current FERC-approved ROP and FERC Policy Statements and orders that provide this flexibility already to NERC and the Regional Entities.</p> <p>Since the effective date of the ROP, NERC and Regional Entities have been evaluating risks to the reliability of the Bulk Power System taking into account the Registered Entity’s Bulk Power System Facilities and operations and their significance to the reliability of the Bulk Power System and the Registered Entity’s compliance history and internal compliance program or other indicators of its culture of compliance. These reviews take into account prior pronouncements of FERC in its Policy Statements and orders and the current, FERC-approved ROP</p> <p>Efforts are underway to allow interested industry stakeholders to provide input into factors to be considered in evaluating the Registered Entity’s Bulk Power System Facilities and operations and their significance to the reliability of the Bulk Power System and the Registered Entity’s compliance history and internal compliance program or other indicators of its culture of compliance.</p>
	Section 3.3. The proposed revisions concerning Spot Checks will make them more complicated, require more administrative work, and make them closely resemble audits. Many of the new “formalities” should be deleted so that Spot	No additional change.	The additional language provides clarification regarding roles and responsibilities and ensures due process.

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	Checks can be returned to their original intent as a “snapshot” of compliance without the formalities of an audit. (WECC)		
Section 3.3.1 – Spot Check Process Steps – (1) The first step is revised to state that a “notification letter” will be issued by the CEA to the Registered Entity, which will include the scope of the Spot Check including the Reliability Standard requirements that will be covered. (2) The second step is revised to state that the notification package will include the names and employment histories of the persons who will perform the Spot Check. It is also revised to state that the CEA shall provide confirmation to the Registered Entity that the Spot Check team members have executed confidentiality agreements or acknowledgements. The second step is also revised to state that the Registered Entity may object to inclusion of any individual on the Spot Check team on the grounds specified in §3.1.5.4, but that nothing in §3.1 shall be read to limit the participation of NERC staff on a Spot Check team or to limit the participation of FERC staff in a Spot Check of a Registered Entity, or involving a portion of the Bulk Power System, over which FERC has jurisdiction. (3) The third step is revised to specify that the Registered Entity must provide the required information to the CEA by the date specified in the request. (4) The fifth step is revised to state that if the Spot Check team’s review of the information submitted indicates a potential noncompliance, the CEA will conduct a Preliminary Screen. (5) The sixth step is revised to state that the Spot Check team will prepare a draft Spot Check report and the Registered Entity will be given ten business days to comment on it. (6) The sixth step is revised to provide that the Spot Check team will consider any corrections based on the Registered Entity’s comments, finalize the Spot Check report and provide it to the Registered Entity and to NERC. (7) The step stating that the CEA will send the Registered Entity a Notice of Possible Violation is deleted, as that step will now be covered in Section 5.0, Enforcement Actions.	Section 3.3.1. It is a conflict of interest to have an agency [FERC] that is the final arbiter of appeals to be making initial allegations of non-compliance. Further, FERC staff may now be participating as observers in Spot Checks to develop a basis for an audit of the same entity to be conducted by FERC. (MISO)	No additional change.	Current FERC approved language allows FERC staff to participate on a Spot Check team. The stakeholder comment is beyond the scope of the proposed ROP changes. FERC would reject any change that purported to prohibit FERC participation.
Section 3.3.1 – Spot Check Process Steps – (1) The first step is revised to state that a “notification letter” will be issued by the CEA to the Registered Entity, which will include the scope of the Spot Check including the Reliability Standard Requirements that will be covered. (2) The second step is revised to state that the notification package will include the names and employment histories of the persons who will perform the Spot Check. It is	Sections 3.3.1 and 3.4.1. The Registered Entity should have the ability to object both to specific NERC and FERC staff members, <u>and to participation of governmental entities that do not have specific jurisdiction to enforce NERC Reliability Standards.</u> (OEV)	The second step is also revised to state that the Registered Entity may object to inclusion of any individual on the Spot Check team on the grounds specified in §3.1.5.4, but that nothing in §3.1 shall be read to limit the participation <u>generally</u> of NERC staff on a Spot Check team or to limit the participation <u>generally</u> of FERC	This provision was revised in part based on stakeholder comments on the November 7 posting. Current FERC-approved rules allow for participation by both NERC and FERC staff on a Spot Check team. However, in response to stakeholder comments, text was added/modified to clarify that the Registered Entity may object to

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also revised to state that the CEA shall provide confirmation to the Registered Entity that the Spot Check team members have executed confidentiality agreements or acknowledgements. The second step is also revised to state that the Registered Entity may object to inclusion of any individual on the Spot Check team on the grounds specified in §3.1.5.4, but that nothing in §3.1 shall be read to limit the participation generally of NERC staff on a Spot Check team or to limit the participation generally of FERC staff in a Spot Check of a Registered Entity, or involving a portion of the Bulk Power System, over which FERC has jurisdiction. This provision was revised in part based on stakeholder comments on the November 7 posting. (3) The fourth step is revised to specify that the Registered Entity must provide the required information to the CEA by the Required Date specified in the request. (4) A new sixth step is added to state that if the Spot Check team’s review of the information submitted indicates a potential noncompliance, the CEA will conduct a Preliminary Screen. (5) The seventh step is revised to state that the Spot Check team will prepare a draft Spot Check report and the Registered Entity will be given ten business days to comment on it. (6) The eighth step is revised to provide that the Spot Check team will consider any corrections based on the Registered Entity’s comments, finalize the Spot Check report and provide it to the Registered Entity and to NERC. (7) In the ninth step, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text on this topic is provided. (8) The step stating that the CEA will send the Registered Entity a Notice of Possible Violation is deleted, as that step will now be covered in Section 5.0, Enforcement Actions.		staff in a Spot Check of a Registered Entity, or involving a portion of the Bulk Power System, over which FERC has jurisdiction.	participation by particular individual NERC or FERC staff members.
Section 3.4.1 – Compliance Investigation Process Steps – (1) The first step is revised to provide that the CEA will take certain actions within three (rather than within two) business days of the decision to initiate a Compliance Investigation. (2) The second step is revised to provide that within three (rather than two) business days after receiving notice of the decision to initiate a Compliance Investigation, NERC will notify FERC and other Applicable Governmental Authorities. In addition, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text	Section 3.4.1 (Compliance Investigations). Object to text that would prohibit a Registered Entity from objecting to participation of specific NERC or FERC staff members on a CI team. (Trades; Austin, LGC) Adding “generally” before “by NERC, by FERC staff or by staff of another Applicable Governmental Entity” would make it clearer that this section allows objections to specific NERC and FERC staff members but not to participation by NERC staff and FERC staff generally. (LGC)	”Generally” was inserted as suggested by the commenter.	See above. Current FERC-approved rules allows for participation by both NERC, FERC and other Applicable Governmental Authority staff on a Compliance Investigation team.

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is provided. (4) The fourth step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (5) The eighth step is revised to provide that the CEA may review any mitigating activities (in addition to Mitigation Plans), since not all actions taken by a Registered Entity to correct a noncompliance and prevent recurrence are memorialized in a formal Mitigation Plan. (6) The ninth step is revised to provide that if the CEA identifies a potential noncompliance, it will conduct a Preliminary Screen. (7) In the tenth step, text concerning the provision of non-public compliance information to FERC or to another Applicable Governmental Entity is deleted and replaced with a reference to Section 8.0, where the full text is provided.			
	Section 3.4.1. The changes to section 3.1.5.4 concerning Registered Entity objections to NERC or FERC participants in audits should also be made to section 3.4.1. (KCPL)	There are no changes in 3.1.5.4; however, changes have made as described above to address the concerns underlying this comment.	See above. Current FERC-approved rules allows for participation by both NERC and FERC staff; however, conforming changes to the provisions have been made to reflect that, while an entity may not object generally to NERC and FERC staff participation, they may identify concerns as to specific individuals.
	Section 3.4.1. Provision should be clarified to explain when a NERC staff member would serve as an observer or as a team member in a CI. (Trades)	The second step is revised to specify that NERC will assign a staff member to act as an observer or Compliance Investigation team member, as well as serve as a single point of contact, and will notify the Registered Entity as to whether the NERC staff member is acting as an observer or as a team member.	This provision was revised in response to this stakeholder comment on the November 7, 2011 posting.
Section 3.6.1 – Periodic Data Submittals Process Steps – (1) The first step is revised to delete reference to the CEA’s Web site; the CEA may make the submittal forms available through other means. (2) The third step is revised to provide that the Registered Entity must provide any required information to the CEA by the Required Date as specified in the request. (3) The fifth step is revised to provide that if the CEA’s review of the data submittal indicates a potential noncompliance, the CEA will perform a Preliminary Screen. (4) A paragraph is added at the end of this section stating that receipt of a Periodic Data Submittal by the CEA shall not be construed as a finding by the CEA that the Registered Entity is compliant with, not compliant with, or not subject to, the Reliability Standard requirement. This additional text is intended to negate the assumption that if a CEA makes no further response to a Registered Entity	Section 3.6.1. In the sentence that receipt of a Periodic Data Submittal shall not be construed as a finding by the CEA that the Registered Entity “is compliant with, not compliant with, or not subject to, the Reliability Standard requirement, “is subject to” should be added before “not subject to.” (TAPS)	The phrase “is subject to” was added as suggested by this comment.	The change was made based on the stakeholder comment on the November 7 posting.

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concerning a Periodic Data Submittal, the CEA has determined that the Registered Entity is compliant with the Reliability Standard requirement.			
Section 3.8 – Preliminary Screen – (1) The provisions relating to performance of Preliminary Screen are relocated to Section 3.8 from Section 5.1, as the Preliminary Screen is considered a step in the compliance monitoring process (Section 3.0), rather than in the compliance enforcement process (Section 5.0). (2) Section 3.8 states that the Preliminary Screen will be conducted within five business days after the CEA identifies the potential noncompliance, except that (i) if the CEA identifies the potential noncompliance during a Compliance Audit, the Preliminary Screen will be conducted immediately following the exit briefing of the Registered Entity, and (ii) if the CEA identifies the potential noncompliance during a Compliance Investigation, the Preliminary Screen shall be conducted immediately after the Registered Entity is first notified of the potential noncompliance identified by the Compliance Investigation. The two exceptions are necessary so that the Registered Entity does not receive a Notice of Possible Violation before being notified that the Compliance Audit or Compliance Investigation has found a potential noncompliance. (3) Consistent with the change in definition (§1.1.23), the Preliminary Screen will now include a determination of whether, if known, the potential noncompliance is not a duplication of a Possible Violation or Alleged Violation that is currently being processed. (4) The revised section provides that if the Preliminary Screen results in an affirmative determination with respect to the three criteria, a Possible Violation exists and the CEA shall proceed in accordance with Section 5.0.	Section 3.8 (Preliminary Screen). This section is unnecessary and should be deleted. (Trades)	No additional change.	This is not a new section; rather, it has just been moved to this location from another part of Appendix 4C. It is current FERC-approved language.
	Section 3.8. The Preliminary Screen is unnecessary because the identical process is built into the current automated reporting systems used by all Regions. If the purpose of the Preliminary Screen is to provide prompt notification to FERC of every possible problem, <u>this can be accomplished without the burdens and complications of the Preliminary Screen</u> (WECC)	No additional change.	The Preliminary Screen is needed to establish consistent processes and a consistent timeframe. The Preliminary Screen is provided for in the current FERC-approved Appendix 4C and deletion was not proposed in the November 7 posting.
	Section 3.8. The text of the Preliminary Screen provision should be adapted to make the FFTR off-ramp clearer. (TAPS)	No additional change in response to this comment; rather, the section was changed in response to another stakeholder comment.	The Preliminary Screen does not dictate the ultimate disposition of a Possible Violation, so no changes are needed.

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Section 4.1 – NERC Compliance Monitoring and Enforcement Program Implementation Plans – (1) Revised to provide that the NERC Implementation Plan will be provided to the Regions by on or about September 1 (rather than October 1) of the prior year. (2) Revised to state that NERC may update and revise its Implementation Plan during the course of the year. (3) Revised to state that Regional Entities have discretion to make modifications to the NERC Implementation Plan with respect to individual Registered Entities, based on a determination concerning the Registered Entity’s past and current compliance performance.	Section 4.1. Objects to provision that authorizes Regional Entities to make modifications to the NERC Implementation Plan with respect to individual Registered Entities, based on a determination concerning the Registered Entity’s past and current compliance performance. The second to last sentence of 4.1 should be removed, and the following sentence should be added: “Any changes made to the scope of the implementation plan shall be applied consistently among the registered entities.” (FESC)	In Sections 4.1 and 4.2, proposed additional text stating that Regional Entities have discretion to make modifications to the NERC or Regional Entity Implementation Plan with respect to individual Registered Entities “based on a determination concerning the Registered Entity’s past and current compliance performance”, has been deleted.	The provision described in (3) in the first column is consistent with other ROP provisions that make clear that a Registered Entity must comply with all Reliability Standards, regardless of whether they are on the list and may add to the list as necessary in the interest of ensuring reliability of the Bulk Power System. In addition, the current, FERC-approved language states that: “The Compliance Audit may include any other Reliability Standards that are applicable to the Registered Entity.”
	<p>Section 5.0. Objects to text giving the CEA authority to collect documents, data and information in the manner it deems most appropriate, including removing documents, data and information from the Registered Entity’s location. (OEV)</p> <p>The caveats that the information must conform to security procedures and other safeguards as appropriate is insufficient; NERC only has authority to collect documents, data and information necessary to establish and enforce reliability standards. (OEV)</p>	Text is added to state that the CEA has authority to collect Documents, data and information in the manner it deems most appropriate, including <u>requesting that copies be made</u> of Documents, data and information and <u>removing those copies</u> from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain. This provision has been revised based on stakeholder comments to the November 7 posting.	<p>These comments do not recognize that the provision states that “copies” of documents, data and information can be removed.</p> <p>As discussed in 3.0 above, requests for data, documents and information do not preclude an opportunity for a registered entity to discuss acceptable alternative formats with the Compliance Enforcement Authority to the extent necessary. It takes into account the provisions of Section 1500 of the ROP regarding confidential information. However, as noted, additional changes have been made in response to stakeholder comments that the CEA should not be allowed to remove original documents, or the Registered Entity’s only, existing copies, from the Registered Entity’s site.</p>
	Section 5.0. Text should be revised to clarify that the CEA may have copies made of documents, and remove the copies from the Registered Entity’s site, but cannot take the Registered Entity’s sole existing copies. (TAPS)	See above.	See above.
	Section 5.0. In the new text that says “in such circumstances, other approaches may be considered and employed,” text should be added providing that Registered Entities have the	In response to this comment, a statement is added that the Registered Entity is entitled to object to the use of any such other approach.	A revision was made in response to the stakeholder comment on the November 7 posting.

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	opportunity to object to any such “other approaches,” as they do for FFTR. (TAPS)		
	<p>Section 5.0 and Attachment 1. NERC should not be able to assess a violation at the Severe VSL unless it has evidence to demonstrate the violation is Severe. (ACES)</p> <p>While NERC has the authority to collect data, it is problematic that NERC can establish an arbitrary timeline and mandate data in the form requested, and only “may” allow more time for the Registered Entity’s response. (MISO)</p> <p>The basis on which sanctions could be imposed and the basis on which they can be imposed are vague and do not provide sufficient notice to Registered Entities. It is unclear what actions are contemplated by Step 2 (“implement a compliance monitoring process directed to the Registered Entity” [note: current text says “a compliance audit may be scheduled”] and “apply a Reliability Standard violation at the severe violation level” . Can these include monetary sanctions? Who at NERC or the Regional Entity makes the initial determination that Section 5.0 and Attachment 1 can be invoked, and through what process? Is the NERC or Regional Entity Board approval required? Is there an appeal process? What does it mean that information is not provided “in the form requested”, and who determines that? How is confidential data protected? (Trades)</p> <p>NERC only has authority under section 215 to impose penalties for violations of Reliability Standards; any imposition of penalties for actions that are not violations of Standards would be unlawful. (OEV)</p> <p>-- If Section 5.0/Attachment 1 are adopted, they should be revised to include specific criteria that NERC or a Regional Entity must meet before this procedure can be invoked: (1) deadlines for</p>	No additional change is made in response to this comment.	<p>Attachment 1 addresses failure to provide documents, data and information requested in a compliance monitoring process, for which the time periods, formats etc. are specified in the CMEP, Appendix 4C. The current, FERC-approved language in Attachment 1 to Appendix 4C allows a Compliance Enforcement Authority to assess a violation at the Severe VSL for failure to provide information requested in connection with a compliance monitoring and enforcement process. The Compliance Enforcement Authority makes the initial determination that Section 5.0 and Attachment 1 can be invoked, in accordance with those provisions. Once the NAVAPS is issued the normal enforcement process would apply. Provisions regarding confidential information are set forth in section 1500 of the ROP. The Penalty would be for violation of a Standard because by failing to provide the requested documents and data, the entity has failed to demonstrate compliance.</p> <p>Revised Attachment 1 is, in large part, a restatement of the existing, FERC-approved text. Revisions proposed in the earlier (July 1 – August 15) posting included provisions whereby fines could be imposed for failure to provide requested information; these proposed provisions have been deleted in response to prior stakeholder comments on the first public posting. The proposed language states that:</p> <p>. . . upon a request from the Registered Entity submitted prior to the Required Date stating in reasonable detail the basis for the Registered Entity’s need for additional time, NERC or the Regional Entity may afford the Registered Entity reasonable additional time to submit the data, information or report due to the scope or difficulty of the request or requirement for data,</p>

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	providing the information must be reasonable; (2) if entity believes deadline is unreasonable, entity must immediately contact NERC/Regional Entity, and an alternate deadline will be negotiated; (3) any formatting requirements for the data must be clearly specified in the data request; (4) if the requested information is to be provided in a form or manner that is consistent with a designated template, NERC/Regional Entity must provide the template at the time the data request is issued. (Trades)		<p>information or reports, the amount of the data, information or reports requested or required, or the form in which the data, information, or other reports has been requested or is required to be provided.</p> <p>In response to stakeholder concerns expressed in comments on the November 7 posting, Attachment 1 has been revised to add text stating that, the process described in this Attachment 1 is intended to be applied where a Registered Entity does not respond by the Required Date to an initial request for data, information or reports in connection with a compliance monitoring and enforcement process and does not respond to subsequent requests (Steps 1 and 2 above) by the stated deadline. This process is not intended to apply where the Registered Entity responds, prior to the Required Date, to the initial request or requirement for data, information or reports with requests for clarification, definition of scope, or similar questions concerning the request or requirement for data, information or reports, or requests, prior to the Required Date, additional time to respond based on the scope or difficulty of the request or requirement for data, information or reports, the amount or extent of the data, information or reports requested or required, or the form in which the data, information or report is to be provided, and works with NERC or the Regional Entity in good faith to respond to the request or requirement for data, information or reports, as modified if appropriate by NERC or the Regional Entity based on questions raised by the Registered Entity.</p> <p>The NAVAPS or other notification, as applicable, would be issued because, by failing to provide the information requested in a compliance monitoring process, the Registered Entity has failed to provide sufficient evidence to demonstrate compliance.</p> <p>Attachment 1 pertains only to failures to provide</p>

Change proposed by NERC	Comment received	Outcome	Justification/Notes
			information requested in connection with compliance monitoring and enforcement processes. Sections 3.0 and 5.0 provide very explicit process steps about how and when information will be requested and the Registered Entity's responsibility to respond.
	Sections 5.3 and 5.4 (and elsewhere). Rather than introducing new phrases such as "other notification" to accommodate differences among Regional Entities in providing notification through a different means than a Notice of Alleged Violation and Proposed Penalty or Sanction, NERC should be working to make the Regional Entity procedure more uniform. (TAPS)	No additional change.	While NERC strives to ensure consistency in the application of enforcement processes, including consistency of terminology, it is not reasonable at this stage to require this type of change. Other notification can include the FFT opt-out letter or a Notice of Waiver of a NAVAPS and negotiated resolution as a Notice of Confirmed Violation.
Section 5.4 – Registered Entity Response -- (1) Revised to add agreement by the Registered Entity with the notification of Alleged Violation as establishing acceptance of the CEA's determination of violation and penalty or sanction. (2) Revised to provide that the 30 day period runs from the date of notification of Alleged Violation by electronic mail (consistent with a revision to §5.3, above). (3) Revised to state that the CEA will issue a Notice of Confirmed Violation "or similar notification," to recognize that some Registered Entities' processes may involve providing notification through a different means than a Notice of Confirmed Violation. Similar revisions are made in other sections. (4) Revised to state that the CEA will report the Confirmed Violation to NERC (rather than entering it into the compliance reporting and tracking system – it is not necessary to specify the particular reporting mechanism to be used). (5) Revised to state that the Registered Entity will be allowed to provide a written explanatory statement to accompany the filing with FERC and public posting of the Confirmed Violation. (6) Revised to state that if the Registered Entity contests the Alleged Violation or proposed penalty or sanction, it must submit a response within 30 days following the date of notification of the Alleged Violation. (7) Reference to issuing a Notice of Confirmed Violation by the CEA is deleted, as this topic is covered in a subsequent section.	Section 5.4 A Registered Entity should be given 60 days to respond to a proposed penalty or sanction. (Trades; Austin) The Registered Entity should be required to state its intent to contest a notification of violation within 30 days, but be given 60 days to file its detailed response, including supporting documentation. (LGC)	No additional change.	NERC proposed a clarification, not a substantive change to the current FERC-approved timeframe of 30 days. NERC has no basis in experience that 30 days is not sufficient time to provide a full response. The response is that an entity agrees with it, does not contest it or neither admits nor denies it. An entity may also contest it. Additional time is afforded to identify needed mitigating activities to correct an issue or prevent recurrence.

Change proposed by NERC	Comment received	Outcome	Justification/Notes
<p>Section 5.6 – Settlement Process -- (1) Revised to provide that the Registered Entity or the CEA may terminate settlement negotiations at any time. Either party should have discretion to terminate settlement negotiations if they are not progressing in a productive manner. (2) Revised to provide that the time for the Registered Entity to respond to the notification of Alleged Violation pursuant to §5.4 is suspended during settlement negotiations. (3) Revised to state that the CEA and the Registered Entity will execute a settlement agreement (rather than that the CEA will issue a letter) setting forth the final settlement terms. (4) Revised to state that within five business days after NERC advises the CEA of NERC’s approval, rejection or proposed revisions to a settlement agreement, the CEA will notify the Registered Entity. Notification to the Registered Entity should come from the CEA, not from NERC which has not been in negotiation or other contact with the Registered Entity. (5) Text concerning the provision of non-public compliance information to FERC or another Applicable Governmental Entity is deleted and replaced with a reference to §8.0, where the full text is provided. (6) Text is added to clarify that in the public posting of the settlement agreement or of the terms of the settlement, any Critical Energy Infrastructure Information or Confidential Information will be redacted.</p>	<p>Section 5.6 Objects to new text, “the Compliance Enforcement Authority may terminate settlement negotiations at any time.” (Austin) This sentence should be deleted and replaced with: “The Compliance Enforcement Authority shall engage in good faith settlement negotiations, which can be terminated by the Compliance Enforcement Authority at any time in good faith.” (OEV)</p> <p>Also, <u>the first sentence should be revised to state that the Registered Entity may terminate settlement negotiations at any time.</u> (OEV)</p> <p>Also, what constitutes “during settlement negotiations” needs to be defined. Is it the time between when the Registered Entity requests settlement negotiations, and the execution of the settlement agreement or the termination of settlement negotiations (which also needs to be defined)? (TAPS)</p> <p>The provision “the time for the Registered Entity to respond to the notification of Alleged Violation pursuant to Section 5.4 during settlement negotiations” is unclear as to whether it deals only with the timing of the Registered Entity’s response, or waives the entire requirement for a response.</p> <p>Further, the Registered Entity should always be required to respond to the NOAV; it is difficult to have productive settlement negotiations without the Registered Entity’s response to the NOAV. Rather than make this a uniform rule, the Registered Entity should have the flexibility to waive the response if it so desires. (WECC)</p>	<p>No additional change.</p> <p>This revision has been made.</p> <p>Revised to specify that when the CEA has agreed to engage in settlement negotiations, the running of the time period specified in Section 5.4 for the Registered Entity to respond to the notification of Alleged Violation pursuant to §5.4 is suspended until settlement negotiations are concluded or terminate.</p> <p>See change described above.</p>	<p>There is no reason to insert the term “good faith” in this one place, because everything NERC and the Regions do pursuant to the CMEP is presumed to be, and should be, in good faith. Other changes made in response to stakeholder comments as noted.</p>

Change proposed by NERC	Comment received	Outcome	Justification/Notes
			Nothing prevents a regional entity from asking for information it needs in connection with settlement discussions.
Section 5.7 – NERC Appeal Process – Revised to provide that the CEA, as well as the Regional Entity, may appeal the decision of the Regional Entity hearing body, in accordance with amended Section 409 of the ROP.	Section 5.7. Regional Entity should not be allowed to appeal the decision of the Regional Entity Hearing Body to NERC. (Trades; Austin; LGC; OEV)	No additional change.	See above regarding role of hearing body as distinct from regional entity staff.
Section 5.11 -- Special Procedures for an Enforcement Action Against an ISO/RTO Where the Monetary Penalty May be Allocated by the ISO/RTO to Other Entities – This is a new section to establish procedures pursuant to which (1) an ISO/RTO can request the CEA to make a determination, during the enforcement process for a Notice of Possible Violation issued to the ISO/RTO, that one or more specified other entities were responsible, in whole or on part, for actions or omissions that caused or contributed to the violation (if approved), and (2) the specified other entity(ies) can request and be allowed to participate in the enforcement process.	<p>Section 5.11. This provision should be deleted. (Trades)</p> <p>Section 5.11 should not be adopted as written because it improperly limits the ability of ISO/RTOs to get determinations that another entity or entities was responsible for a violation and therefore to allocate the penalty to the other entity/entities. Objectionable provisions include (i) the Public Notification List (FERC orders provide that all that is needed is notice by the ISO/RTO to the other entity); (ii) the possible limitation of the other entities to Registered Entities; (iii) requirement for ISO/RTO allocating the penalty to the other entity and providing copies of supporting tariffs, agreements, etc.; (iv) provision that the CEA will “verify” that the ISO/RTO has authority to allocate the penalty to the other entity; (v) CEA can refuse to make the requested determination if the ISO/RTO fails to give timely notice to the other entity; (vi) settlements have to be agreed to by the CEA, the ISO/RTO and the other entity, cannot have a settlement between the CEA and the ISO/RTO. (IRC)</p> <p>The definition of “ISO/RTO” proposed in section 1.1.12 and used in section 5.11 “is inaccurate as a legal matter” [note: the comments do not explain</p>	<p>This is a new section to establish procedures pursuant to which (1) an ISO/RTO can request the CEA to make a determination, during the enforcement process for a Notice of Possible Violation issued to the ISO/RTO, that one or more specified other entities were responsible, in whole or on part, for actions or omissions that caused or contributed to the violation (if confirmed), and (2) the specified other entity(ies) can request and be allowed to participate in the enforcement process.</p> <p>Section 5.11 has been substantially revised and shortened from the version included in the November 7 posting, based on stakeholder comments on the November 7 posting – see discussion under “Justification” column</p>	<p>This proposed new section establishes a procedure whereby an ISO or RTO (ISO/RTO) that is the subject of an Alleged Violation and is authorized pursuant to tariffs, agreements or other governance documents to allocate all of part of the Penalty to a third party whose acts or omissions may have caused or contributed to the violation, can request the Regional Entity (Compliance Enforcement Authority or CEA) to make a determination, as part of the enforcement process for the Alleged Violation, that the acts or omissions of a specified third party(ies) in fact caused or contributed to the violation. The ISO/RTO must also give notice to the specified third party(ies), and the third party(ies) will then be entitled to participate in the enforcement process if it requests. The CEA would not determine whether or in what proportion the Penalty (if any) should be allocated to the third party(ies), but only whether the third party’s acts or omissions caused or contributed to the violation. As provided for in FERC Orders, the ISO/RTO would then be required to initiate a separate proceeding at FERC under §205 of the Federal Power Act to allocate the Penalty to the third party(ies), in which the CEA or NERC would not be involved.</p>

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	<p>why it is “inaccurate as a legal matter”], and should simply refer to entities that have been recognized as either an ISO or RTO by FERC in accordance with its regulations “and ERCOT as well.” (IRC)</p> <p>This provision should be removed at this time and a separate process should be established to discuss the need for this provision and the best approach for addressing that need. Proposed 5.11 may not provide adequate due process for entities to which an ISO/RTO may attempt to allocate a penalty. (Constellation)</p> <p>Section 5.11 should either not be added at this time, or should be simplified. The Public Notification Listing is not needed and too many notices are required; further, any failure to include an entity on the List would seem to satisfy the “extraordinary circumstances” provision. Not being on the list may give entities a false impression that they are not subject to penalty allocations by an ISO/RTO. Section 5.11 only needs to require the ISO/RTO to provide notice to the CEA and the specified other entity that the other entity needs to be included in the proceeding, and that after issuance of the notice the CEA will grant the other entity “intervenor” status. (RFC)</p> <p>Third party “intervention” [participation] under section 5.11 should be limited to Registered Entities. Regional Entities should not have to budget for and conduct enforcement activities to address the culpability of a non-Registered Entity for purposes of the ISO/RTO’s Section 205 proceeding. (RFC)</p> <p>If Section 5.11 is retained, revisions should be made: (1) It is overly long and wordy and should be streamlined. (2) The Public Notification List is unnecessary and should be deleted. (3) Provision that ISO/RTO’s notice to other entity should state that the entity should contact the CEA “as soon as possible” is vague and should be clarified. (4) The ISO/RTO’s notice to the other entity should state</p>		<p>This provision has its origins in a Guidance Order issued by FERC in 2008 on the subject of allocations by ISO/RTOs of Penalties for Reliability Standard violations to the ISO/RTO’s customers, members and other third parties. The provision has gone through numerous iterations and has been the subject of considerable interaction among NERC, Regional Entities, the ISO/RTO Council and other interested stakeholders. NERC staff believes that provisions in the version of §5.11 posted for comment from November 7 – December 22 that the IRC and other stakeholders found particularly objectionable have been removed from the version being presented for approval. These deleted provisions include a requirement for the ISO/RTO to maintain a “public notification list” of all entities to which the ISO/RTO could allocate Penalties, and text that made it appear that in each individual case the CEA would make an independent determination as to whether the ISO/RTO had authority to allocate Penalties to third party(ies). The version of §5.11 being presented for approval has been streamlined in other respects from previously posted/circulated versions.</p> <p>Under proposed §5.11, the ISO/RTO can ask the CEA to determine if Registered Entities or non-Registered Entities caused or contributed to the violation. This is based upon the guidance in previous FERC Orders, which properly recognized that CEA enforcement staffs have the training, experience and expertise to evaluate and determine the causes of, and contributions to, a violation.</p> <p>In order to justify the introduction of the additional issue into the CEA enforcement process, the resulting expenditure of additional time and resources in the enforcement process by the CEA, and allowing third party(ies) to participate in the enforcement process, it will be necessary for the ISO/RTO to make a showing in each case that the particular third party(ies) it</p>

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	<p>that the other entity has obligation to preserve documents. (5) NERC should make sure that Section 5.11 is consistent with the Hearing Procedures provision authorizing intervention. (6) NERC should not be making independent legal conclusions as to whether the ISO/RTO has authority to allocate to the other entity (5.11.3). (7) Timeframes for giving the required notice should be specified. (8) There should be an explicit process for appealing determinations under Section 5.11. (Trades)</p> <p>MISO supports the comments of Trades and IRC.</p> <p>Section 5.11 should be deleted because the procedures it establishes are discriminatory and grant preferential treatment to RTOs and ISO, and therefore are not “just, reasonable, not unduly discriminatory or preferential.” (OEV)</p> <p>If Section 5.11 is retained, it should be simplified and focused to only address how entities may intervene in an enforcement action against an ISO/RTO. (Constellation)</p> <p>Section 5.11 should not be restricted to Registered Entities. (PJM TO)</p> <p>Section 5.11 should be revised to: (i) eliminate the Public Notification List requirement; (ii) eliminate the requirement that the ISO/RTO request a determination; (iii) adopt a streamlined approach whereby the ISO/RTO must notify the specified other entity of the ISO/RTO’s intent to seek a determination and the specified other entity may subsequently intervene in an enforcement action as a matter of right. Section 5.11 should not specify that the CEA must “verify” that the RTO/ISO has the authority to allocate the penalty to the specified other entity. FERC has ruled that the “notice” requirement to the specified other entity is satisfied by appropriate tariff provisions. (PJM TO)</p>		<p>contends caused or contributed to the violation are within the scope of the ISO/RTO’s authority to allocate Penalties, whether that authority is based on tariff provisions, agreements, or other governance documents.</p>

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	<p>In Section 5.11, NERC should clarify how it intends for the CEA to issue a blanket finding that the specified other entity contributed “in whole or in part” to actions or omissions that caused or contributed to the violation. (PJM TO)</p> <p>The requirement for the Public Notification List can be eliminated since the onus is on the ISO/RTO to provide appropriate notice to the Registered Entity or be foreclosed from requesting allocation of the penalty to the Registered Entity. (NPCC)</p> <p>Section 5.11.2 should make it clear that the CEA will be making determinations as opposed to engaging in a detailed analysis on its own of the root cause of the violation. Regional Entities do not have the resources to conduct such analyses. (NPCC)</p> <p>NERC should be limited to identifying compliance failures of Registered Entities based on their registration status and the administration of fines and sanctions already established by the ROP. (KCPL) Section 5.11 is not needed because if an ISO/RTO has independent authority to allocate part of its penalty to a Registered Entity, the ISO/RTO should make its own determinations regarding the contributions or causation by the Registered Entity. (LGC)</p> <p>Section 5.11 is very long and difficult to follow; it should be streamlined. If it is retained: (i) section 5.11.3 needs to clearly provide for a notice to the other entity that it has been implicated and sufficient time for the other entity to decide to participate; (ii) also needs to state that NERC and the CEA will only participate after all entities involved have elected to participate or not participate. (KCPL)</p>		
Text is added to state that the CEA has authority to collect documents, data and information in the manner it deems most	Section 6.0. Objects to text giving the CEA authority to collect documents, data and	Text is modified to state that the CEA has authority to collect Documents, data and	These comments do not recognize that the provision states that “copies” of documents, data

Change proposed by NERC	Comment received	Outcome	Justification/Notes
appropriate, including removing copies of documents, data and information from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain.	<p>information in the manner it deems most appropriate, including removing documents, data and information from the Registered Entity’s location. (Trades; Austin; LGC; OEV)</p> <p>Concerns about this provision are exacerbated by the proposed new authority that would allow NERC to impose administrative fines for failure to comply with information requests. (Trades)</p> <p>The caveats that the information must conform to security procedures and other safeguards as appropriate is insufficient; NERC only has authority to collect documents, data and information necessary to establish and enforce reliability standards. (OEV)</p> <p>Text should be revised to clarify that the CEA may have copies made of documents, and remove the copies from the Registered Entity’s site, but cannot take the Registered Entity’s sole existing copies. (TAPS)</p> <p>If this provision is retained, it should explicitly incorporate a reference to ROP Section 1500 (re protection of Confidential Information). (Trades)</p>	information in the manner it deems most appropriate, including <u>requesting copies to be made</u> of Documents, data and information and <u>removing those copies</u> from the Registered Entity’s location in accordance with appropriate security procedures conforming to ROP Section 1500 and other safeguards as appropriate in the circumstances to maintain the confidential or other protected status of the Documents, data and information, such as information held by a governmental entity that is subject to an exemption from disclosure under the United States Freedom of Information Act, or a comparable state or provincial law, that would be lost if the information were placed into the public domain. This provision was revised based on stakeholder comments on the November 7 posting.	<p>and information can be removed. However, changes were made in response to these comments – see discussion under Appendix 4C section 3.0 above.</p> <p>NERC notes that the “administrative fines” provision that was initially proposed in the July 1-August 15 posting was deleted in the November posting.</p> <p>The collection of documents is made “conforming to Section 1500 of the Rules of Procedure.”</p> <p>The proposed text already has this reference.</p>

Change proposed by NERC	Comment received	Outcome	Justification/Notes
			Section 1500 is referenced in the proposed text.
	Section 7.0. Objects to new provision that Remedial Action Directive shall include “(v) a statement that the Registered Entity is in a state of noncompliance with the Reliability Standard listed in (i) until the requirements listed in the Remedial Action Directive are completed and certified completed by an officer of the Registered Entity.” Objection is due to the fact that a Remedial Action Directive can be based on a Possible Violation. The referenced statement should only be required where the Remedial Action Directive is based on an Alleged Violation. (BPA)	The text in (v) cited in the comment has been removed.	Change made in response to this stakeholder comment on the November 7 posting.
	Separate objection to inclusion of the above-referenced statement in the Remedial Action Directive is that noncompliance with a Remedial Action Directive may be an aggravating factor in determination of a penalty, but is not itself an independent violation. (TAPS)	See above.	See above.
Appendix 4C Attachment 1			
In Attachment 1 to Appendix 4C, the process steps that the CEA will follow for non-submittal of requested or required data have been revised. The revised text more clearly sets forth the three steps that will be followed, including the two additional notifications that will be issued and to whom they will be issued, if the Registered Entity fails to provide data, information or reports requested in a compliance monitoring or enforcement process by the Required Date.	“Seasonable” should be “reasonable”. (Austin; LGC; MISO; OEV)	The term “seasonable” was the intended, and correct, word; however, since it was not understood as reflected by the stakeholder comments, it was replaced with “submitted prior to the Required Date.”	Clarification of the intent was made.
	Steps 1 and 2 – 5 business days should be changed to 10 business days to allow time for proper response. (Austin)	No additional change.	The timeframe is only for proposing a new response date so no additional time should be necessary.
	The provision allowing the application of penalties against the Registered Entity for a Standard violation at the severe VSL level for failure to provide requested documents, data and information and fails to respond within 15 days is unwarranted and unreasonable. (MISO)	Reference to imposition of a Reliability Standard violation was deleted and replaced with issuance of a NAVAPS for the Reliability Standard Requirement to which the requested [but not provided] information relates.	Revised in response to the stakeholder comments on the November 7 posting. A NAVAPS or notification would be issued because, by failing to provide the requested information, the Registered Entity has failed to provide evidence to demonstrate compliance with the Reliability Standard Requirement to which the request related. There are opportunities to cure provided in the Attachment 1 process. The reference to Severe VSL is existing, FERC-approved language

Change proposed by NERC	Comment received	Outcome	Justification/Notes
			and was not revised.
	There should be an independent appeals process for the process described in Attachment 1.	No additional change.	This is not necessary. If the CEA issues a NAVAPS, the normal enforcement process is followed. Also, other CMEP sections specify that Registered Entity can ask NERC General Counsel for a determination on data requests that the entity believes are unreasonable, unclear etc.
	The citation to 18 C.F.R. §39.2(c) refers to language that actually appears in 39.2(d) and in any event does not support the conclusion that NERC or a Regional Entity may take the steps described in Attachment 1 when the Registered Entity fails to provide, in a timely manner and in the form requested, information requested in connection with a compliance monitoring or enforcement process. This exceeds NERC's authority under FPA section 215 to require a Registered Entity to provide such information as it necessary to implement section 215, i.e. to establish compliance with and enforce Reliability Standards. Further, NERC or the Regional Entity cannot take the actions specified in Step 2 or Step 3 unless the Registered Entity has violated a Reliability Standard. (OEV)	The reference to 18 CFR § 39.2 was revised. Other changes were made to Attachment 1 as described above.	Attachment 1 is intended to address a Registered Entity's failure to provide information requested in compliance monitoring processes. Thus, the information requested but not provided is specifically information required to implement Section 215, i.e. to monitor and enforce compliance with Reliability Standards. By failing to provide info requested in a compliance monitoring process, Registered Entity has failed to demonstrate compliance with the Standard.
Appendix 4C Attachment 2			
	NERC should consider making no revisions to the Hearing Procedures at this time, due to the Regional Entities' collective lack of experience to date with hearings. (RFC)		There have been hearings and the changes proposed are based on the experience gathered during these hearings. The changes are intended to add guidance and certainty with respect to roles, responsibilities and rights of parties. The proposed changes are based in large part on work and recommendations by NERC and Regional Entity staff.
	Objection to proposed revisions that would allow a Hearing Body to have no industry representatives. (MISO)	No additional change.	This change was made in light of NPCC's recently-revised hearing body structure which was approved by FERC.
	The proposed revisions to the Hearing Procedures make them overly burdensome; now they approach being like a court proceeding.	No additional change.	There have been hearings and the changes proposed are based on the experience gathered during these hearings. The changes are intended

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	Objectionable new provisions include: (1) the requirement for a court reporter and transcription, imposes additional costs. (2) Allowing interventions (ISO/RTO issues can often be solved without formal interventions). (3) Interlocutory review and “certification” provisions will increase delay and costs, reduce incentives for cooperation and settlement. (WECC)		to add guidance and certainty with respect to roles, responsibilities and rights of parties. The requirement for a transcript is in the current, FERC-approved rules and is not a new provision. The new provision allowing the Hearing Body to allow interventions in specific, limited circumstances is intended to streamline the hearing process since currently, an intervenor must go to FERC to request and be granted intervenor status, which may delay the Regional Entity hearing.
	Section 1.2.12. Interventions in enforcement hearings should be limited to Registered Entities; “market participants” should not be allowed, as they would potentially bring into issue the application of market rules which are not within the scope of NERC’s authority. Further, any entity having a direct and substantial interest in the outcome of the violation would have to be registered. (NPCC)	No additional change.	See the discussion above regarding the 2008 Guidance Order that recognized the ability of Registered Entities and non-Registered Entities to participate in the hearing in the event that an ISO/RTO seeks to directly allocate all or a portion of a penalty to them.
	Section 1.2.12.b.2. This section (on Interventions) is wordy and difficult to understand ; it should be restated for clarity. (ACES)	No additional change.	No specific changes proposed and only one stakeholder expressed this concern.
	Section 1.4.5(d). The provision that the Regional Entity can only appoint the number of Hearing Body members to achieve a quorum (if there have been recusals, disqualifications, vacancies etc.) should be retained. (Austin; LGC)	No additional change.	The issue seems to be whether the Regional Entity should be allowed to refill the slate completely or just appoint enough members to reach a quorum. The revised text states that the requirement is to appoint “at least” enough replacement members to restore a quorum. It is more appropriate to allow the Regional Entity to replenish the full hearing body if desired. No reason was given as to why the Regional Entity should not be allowed to do this.
	Section 1.5.12. The reference to “or as to which there are other extraordinary circumstances that make prompt consideration of the question . . . appropriate” should be changed to “provided the Hearing Body finds extraordinary circumstances . .	Section 1.5.12(e) was revised to require that the Hearing Body determine that extraordinary circumstances exist.	This change was made in response to this comment to the November 2011 posting.

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	. .”; this revision will cause the text to better track FERC Rules of Practice and Procedure 714 and 715. (RFC)		
	Section 1.6.14. The revisions “encouraging” the use of leading questions and attacking the credibility of a witness in a hearing do not appear to be warranted or necessary and should be eliminated to preserve the current decorum of hearings. (MISO)	No additional change.	The text states two procedural rules in courts and agencies and clarifies what is permitted during the conduct of the hearing. It does not “encourage” these approaches.
	Section 1.7.10. The revisions to the appeal process appear intended to discourage the use of hearings by Registered Entities through (1) extension of the process by Regional Entities that failed in previous enforcement arenas, and (2) substantial use of Registered Entity resources over longer periods of time. (MISO)	No additional change.	See discussion above regarding the justification for the provision regarding the ability of the Regional Entity to appeal.
	NPCC supports the right of the Regional Entity to appeal, because the Hearing Body does not act on behalf of the Regional Entity. (NPCC)	No additional change.	The commenter agreed with the proposed provision and did not propose a change.
Appendix 5A			
None	All of the proposed changes in September, mostly dealing with capitalization and non-substantive, were not included in the November posting. (SPP RE)	These changes are being made for BOT package and FERC filing.	This is correct. These changes are being made for BOT package and FERC filing, consistent with NERC’s November 29, 2011 filing of ROP revisions with FERC.
In the section captioned “Purpose and Scope,” the reference to certification of a new entity that will become NERC certified and registered as a BA, TOP or RC has been expanded to include those entities that perform some or all of the reliability functions of an RC, BA or TOP.	Questions the reason/need for the new text that requires certification of “entities that perform some or all of the reliability provisions [functions] of an RC, BA or TOP.” (Trades; TAPS) This revision expands the certification requirements boundlessly and should be rejected. If there is a reliability need for certification of additional entities, it has not been thoroughly vetted. (TAPS)	See above regarding Section 500.	See above regarding Section 500.
Change from “bulk power system” to “BPS”	The acronym BPS should not be used – should continue to use “bulk power system” throughout. (CCC)	Bulk Power System will be a defined term. “BPS” has been changed to “Bulk Power System.”	Bulk Power System will be a defined term.
Change from “Entity(ies)” to “Entit(ies)”	The change from “Entity(ies)” to “Entit(ies)” is confusing; should continue with the existing	This change has been made.	Revisions were made to return to the existing format.

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	format. (CCC)		
	There does not appear to be a mechanism for registration requests that Regional Entity does not approve. There should be a requirement to notify the applicant that its registration request has been denied. (SPP RE)	This change was made on page 6.	The change was made in response to a comment to the November 2011 posting.
	Page 2 of 20 – The change removing the Regional Entity from the Compliance Registry obligation and stating that NERC is responsible for the Compliance Registry needs to be made elsewhere in the ROP, e.g., Appendix 5B section V bottom of page 9. (CCC)	This change has been made.	This is a conforming change with respect to other proposed changes in the ROP in Section 500 and Appendix 5A.
	Page 3 of 20 – An item 4 should be added to the Regional Entity Certification section that requires that the Regional Entity approve or disapprove the certification as included on page 11 of 20 item 19. (CCC)	No additional change.	Item 2 already says “approves or denies.”
	Need to consistently list either “NERC” first or “Regional Entity” first when both are referred to. (CCC)	No additional change.	This proposed change is burdensome and unnecessary, because both will be referenced as applicable.
	Section 8b, page 9 of 20 – appears to have a missing step. How does an entity know who is the team lead? (CCC)	The provision has been revised to state that a roster of the team will be provided.	This change has been made.
	The Certification Process as described in Appendix 5A is inconsistent with processes being followed by NERC and the Regional Entities today. For example: (i) in Section III under Organization Registration Process, item 4.b, states that an entity responsible for more than one function will have a single NERC ID, but NERC has allowed some entities that perform multiple functions to have multiple NERC IDs. This text should be updated to reflect current practice. (ii) In Section 1 under “Where did these processes begin,” it says certification is ongoing for new entities; but it is also used where existing entities have been identified in a new role. (iii) Section IV under Organization Certification Process, item 8.3 says	Changes have been made. Section III was revised to state that an entity responsible for more than one function will use a single NERC ID, unless assignment of more than one NERC ID to the entity is approved by NERC. Section I was revised to state that registration of entities [not “new entities”] is an ongoing process. Section IV was revised in the changes posted in the November 2011 posting to state that at least two team members are required for an existing certified entity that seeks to expand its	

Change proposed by NERC	Comment received	Outcome	Justification/Notes
	the Certification Team must consist of 4 members, but under direction from NERC, Certification Teams as small as 2 members have been allowed. Language should be added to allow these types of deviations at the discretion of the Certification Team Lead. (WECC)	footprint.	
Appendix 8			
Appendix 8 has been comprehensively revised from its current version.	<p>In contrast to the stakeholder comments on other provisions of the proposed ROP amendments, which in general have been fairly specific, the comments on revised Appendix 8 tended to focus less on specifics and more on why there is a need to (extensively) revise Appendix 8 at this time.</p> <p>Some commenters expressed that any revisions to Appendix 8 should be introduced and implemented contemporaneously with the <i>Event Analysis Process</i> document. Some commenters expressed that revised Appendix 8 is duplicative of, or overlaps, the processes and procedures in the <i>Event Process Manual</i>. Other commenters expressed that Appendix 8 would impose requirements on Registered Entities that are inappropriate or unauthorized.</p>	No changes to Appendix 8 are being made at this time; rather, revisions will be addressed at a later time.	<p>The proposed revised version of Appendix 8 posted in the November 7-December 22 posting drew significant stakeholder comment, with much of that comment pertaining not to specific provisions in revised Appendix 8, but rather to (i) the relationship between Appendix 8 and the new <i>ERO Event Analysis Process document</i>, and (ii) the respective levels of detail and subject matter content of these two documents. Because of the nature of these comments, NERC staff is not presenting a revised version of Appendix 8 for Board approval at this time.</p> <p>NERC's new, non-ROP <i>ERO Event Analysis Process</i> manual document is being presented for Board approval. It has been in field tests and was recently endorsed by both the Operating Committee and the Planning Committee. The <i>ERO Event Analysis Process</i> document is not being presented as a separate Appendix to the ROP.</p>

List of Acronyms Used for Commenters

ACES – ACES Power Marketing, Old Dominion Electric Cooperative, Wabash Valley Power Association, Buckeye Power, Inc. and North Carolina Electric Membership Corporation

Austin – City of Austin d/b/a Austin Energy

BPA – Bonneville Power Administration

CCC – NERC Compliance and Certification Committee

Constellation – Constellation Energy Group, Inc., Baltimore Gas & Electric Company, Constellation Energy Commodities Group, Inc., Constellation Energy Control and Dispatch, LLC; Constellation NewEnergy, Inc., Constellation Power Source Generation, Inc., and Constellation Energy Nuclear Group, LLC.

FESC – First Energy Service Company

FRCC – Florida Reliability Coordinating Council

ITC – ITC Holdings

KCPL – Kansas City Power & Light Company and KCP&L Greater Missouri Operations

LPPC – Large Public Power Council

LGC – Luminant Generation Company LLC

MISO – Midwest Independent System Operator

NPCC – Northeast Power Coordinating Council, Inc.

OEV – Occidental Energy Ventures Corp.

PCGC – Personnel Certification Governance Committee section 600 task force

PJM TO – Designated PJM Transmission Owners, comprised of Jersey Central Power & Light Co., Metropolitan Edison Company, Pennsylvania Electric Company, West Penn Power Company, American Transmission Systems, Incorporated, Trans-Allegheny Interstate Line Company, American Electric Power Service Corporation, Baltimore Gas and Electric Company, Dayton Power and Light Company, Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, Public Service Electric and Gas Company, Rockland Electric Company, and Virginia Electric and Power Company.

RFC – Reliability*First* Corporation

SERC OC – SERC OC Standards Review Group

SPP RE – SPP Regional Entity

TAPS – Transmission Access Policy Study Group

Trades – American Public Power Association, Edison Electric Institute, Electric Power Supply Association and National Rural Electric Cooperative Association

WECC – Western Electricity Coordinating Council

Electricity Sector–Information Sharing and Analysis Center (ES-ISAC) Policy Statement

Action

Approve proposed policy on the role of the Electricity Sector–Information Sharing and Analysis Center (ES-ISAC) vis-à-vis NERC's Compliance Monitoring and Enforcement Program (CMEP).

Background

In 1998 the U.S. Secretary of Energy first asked NERC to serve as the information sharing and analysis center for the electricity sector, in implementation of Presidential Decision Directive 63, as part of a public/private partnership to deal with matters related to infrastructure security. Subsequent administrations have sought to continue and strengthen that public/private partnership through the various sector-specific information and analysis centers.

The essence of the ES-ISAC's work is contained in its name: information sharing. The ES-ISAC gathers information from the disparate electricity industry participants about security-related events, disturbances and off-normal occurrences within the electricity sector and shares that information with its partners in the government. In turn, the government provides information regarding risks, threats and warnings to the ES-ISAC, which is responsible for disseminating that information throughout the electricity sector.

Because NERC is responsible for both the ES-ISAC and the NERC CMEP, NERC management is concerned that some electricity sector participants may be reticent to report suspicious activity or off-normal occurrences to the ES-ISAC out of a fear those matters may be referred to the Compliance and Enforcement Program. To underscore the importance of a free flow of information to the ES-ISAC and to promote the kind of information exchange that is critical to maintaining the security of the electric system, NERC management believes it important to affirmatively state that the ES-ISAC and ES-ISAC staff have no responsibilities for the CMEP. ES-ISAC staff shall not, directly or indirectly, report or share information regarding possible violations of Reliability Standards obtained in the course of performance of their ES-ISAC responsibilities with personnel assigned to the CMEP.

NERC has other means at its disposal to gather information regarding possible violations of Reliability Standards, in particular the CMEP administered through the eight Regional Entities. That program includes a strong emphasis on self-reporting and includes as well self-certifications, audits and investigations. NERC will look to its CMEP for any necessary compliance and enforcement activities, including but not limited to information regarding potential violations of Reliability Standards.

In the event the ES-ISAC or ES-ISAC staff become aware of a situation where the potential actions or inactions of a user, owner or operator of the bulk power system constitute an imminent threat to the reliability of the bulk power system, the ES-ISAC or ES-ISAC staff may make whatever communications are deemed necessary to protect the reliability of the bulk power system. Such communications may be with registered entity senior management. If such communications do not resolve the issue, then the ES-ISAC staff is directed to refer the matter to the NERC General Counsel for consideration of whatever action may be appropriate in the circumstances.

NERC management recommends that the Board of Trustees approve the attached policy statement regarding the role of the ES-ISAC vis-à-vis the NERC CMEP.

**Policy on the Role of the Electricity Sector – Information Sharing and Analysis Center
vis-à-vis
NERC’s Compliance Monitoring and Enforcement Program**

The critical role of the ES-ISAC is contained in its name: “information sharing”. In order to build and maintain the trust relationships that are crucial for a robust exchange of information between the ES-ISAC and industry participants, NERC has adopted a policy that the ES-ISAC and ES-ISAC staff shall have no role or responsibility for any aspect of NERC’s compliance monitoring and enforcement program. Neither the ES-ISAC nor the ES-ISAC staff shall, directly or indirectly, report or share information regarding possible violations of Reliability Standards obtained in the course of performance of their ES-ISAC responsibilities with personnel assigned to NERC’s compliance monitoring and enforcement program.

NERC also has a strong compliance monitoring and enforcement program, administered through the eight Regional Entities. That program includes an emphasis on self-reporting and includes as well self-certifications, audits and investigations. NERC will look to its compliance monitoring and enforcement program for any necessary compliance and enforcement activities,

If the ES-ISAC or the ES-ISAC staff become aware of a situation where the potential actions or inactions of a user, owner or operator of the bulk power system constitute an imminent threat to the reliability of the bulk power system, the ES-ISAC or the ES-ISAC staff may make whatever communications are deemed necessary to protect the reliability of the bulk power system. Such communications may be with registered entity senior management. If such communications do not resolve the issue, then the ES-ISAC staff shall refer the matter to the NERC General Counsel for consideration of whatever action may be appropriate in the circumstances.

DRAFT for consideration at February 9, 2012 NERC Board of Trustees Meeting

Proposed Amendments to Delegation Agreement with Florida Reliability Coordinating Council (FRCC) – Amended Exhibit B (FRCC Bylaws) and Exhibit D (Compliance Monitoring and Enforcement Program)

Action

Approve proposed amendments to Delegation Agreement with FRCC including amended FRCC Bylaws (Exhibit B to Delegation Agreement) and amended Exhibit D to Delegation Agreement.

Background

FRCC has requested that the Board approve, and direct NERC staff to file with FERC for approval, amendments to the Amended and Restated Delegation Agreement between NERC and FRCC, consisting of amendments to Exhibit B – the FRCC Bylaws, and to Exhibit D – Compliance Monitoring and Enforcement Program (CMEP’). **Attachment 1** is a letter from FRCC requesting Board of Trustees (Board) approval of the amendments to the FRCC Bylaws and Exhibit D to the FRCC Delegation Agreement, and explaining the proposed amendments in detail. Specifically, the Board is requested to approve the proposed amendments in substantially the form shown on:

Attachment 2 – Redlined version of Exhibit B to the NERC-FRCC Delegation Agreement (FRCC Bylaws), marked to show the proposed amendments.

Attachment 3 – Redlined version of Exhibit D to the NERC-FRCC Delegation Agreement (FRCC CMEP), marked to show the proposed amendment.

There are no proposed revisions to any other portions of the NERC-FRCC Delegation Agreement, and therefore only the redlined versions of Exhibit B and Exhibit D are being provided with this agenda item.

Board approval of the amendments to Exhibits B and D of the NERC-FRCC Delegation Agreement will also constitute approval of the amendments to the FRCC Bylaws and CMEP as “Regional Entity rules.” The proposed amendments to Exhibits B and D have received the necessary approvals from the FRCC Board of Directors.

The letter from FRCC (**Attachment 1**) identifies and explains the purpose of the proposed amendments, in detail. The following discussion briefly summarizes the principal components of the amendments.

Amendments to Exhibit B (FRCC Bylaws)

Article III of the FRCC Bylaws is being amended to provide for the election of an Alternate Director for each Director. The Alternate Directors will be elected by Sector and by majority vote, as are the Directors. Each Alternate Director will be designated as the alternate for a particular elected Director of the Sector. An Alternate Director must either be a direct report to the Director for whom he or she is the designated Alternate Director, or a senior officer or

manager of the Voting Member represented by the Alternate Director. (§3.2(b)(1)). Alternate Directors will be elected for the same term as Directors, two years. (§3.2(d)).

An Alternate Director will be authorized to attend any meeting that the Director notifies FRCC in advance the Director will be unable to attend, and to exercise all the powers and duties of the Director at that meeting, including being counted for purposes of establishing a quorum. (§3.2(c), 3.5). An Alternate Director may be selected to be a member of a Board Compliance Committee designated as the hearing body for a disputed compliance matter. (§9.1). An Alternate Director can also be removed for cause on the same bases, and based on the same vote, as a Director. (§3.9).

Section 5.1 of the FRCC Bylaws is being amended to clarify that unless otherwise specified by the FRCC Board, none of the FRCC standing committees or other committees, subcommittees and task forces appointed by the Board shall be a committee of the Board or have any authority to take action otherwise reserved to the Board by statute.

Finally, a new Article XI is being added to the FRCC Bylaws to establish dispute resolution procedures to resolve disputes between FRCC Members, between a Member and a consenting non-member, or between FRCC and any Member or consenting non-member, arising from an act or omission by FRCC or from an act or omission by a party in its capacity as a FRCC member. However, the dispute resolution procedures do not apply to disputes that are covered by the dispute resolution provisions of the FRCC CMEP or other NERC dispute resolution provisions. Also, unless agreed to by the parties, the dispute resolution provisions do not supersede any dispute resolution agreement between the parties applicable to the dispute. The lack of a set of dispute resolution procedures for controversies arising from acts or omissions of FRCC or of a FRCC Member in its capacity as a FRCC Member, was viewed as a deficiency in the current FRCC governance documents; addition of new Article XI cures this deficiency.

Amendments to Exhibit D (CMEP)

FRCC also requests approval of amendments to §2.0, “Regional Hearing of Compliance Matters,” of Exhibit D to the Delegation Agreement, relating to the composition of the Board Compliance Committee (BCC) which is the hearing body for disputed compliance matters. The amendments specify that (i) the BCC will consist of one representative of a Voting Member from each of the six FRCC Sectors; (ii) each year, two Directors (including Alternate Directors) from each Sector (rather than two “members”) will volunteer to serve in a BCC pool, from which the BCC will be appointed for each hearing; and (iii) once appointed to a BCC, a Director or Alternative Director shall serve throughout the duration of the hearing.

ATTACHMENT 1

**LETTER FROM FLORIDA RELIABILITY COORDINATING COUNCIL
REQUESTING APPROVAL OF AMENDMENTS**



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January 10, 2012

Via E-Mail

David N. Cook, Esq.
Vice President and General Counsel
North America Electric Reliability Corporation
1325 G Street, N.W., Suite 600
Washington, D.C. 20005-3801

Re: Revisions to FRCC Bylaws

Dear David:

In accordance with the Amended and Restated Delegation Agreement dated January 1, 2011 (“Delegation Agreement”) between the North American Electric Reliability Corporation (“NERC”) and the Florida Reliability Coordinating Council, Inc. (“FRCC”), I am forwarding herewith revised FRCC Bylaws, Exhibit B to the Delegation Agreement, along with conforming changes to the FRCC Compliance Monitoring and Enforcement Program (“CMEP”), Exhibit D to the Delegation Agreement. The nature of and reasons for the revisions are set forth below. The proposed revisions do not affect any of the qualifications for the delegation of authority from NERC to FRCC, and will not have any adverse effect the ability of FRCC to function as a Regional Entity under the Delegation Agreement.¹ Accordingly, FRCC requests that: (i) NERC approve the revisions to Exhibits B and D as consistent with the Delegation Agreement; (ii) the revised Exhibits be forwarded to the Federal Energy Regulatory Commission (“Commission”) for approval, and (iii) upon Commission approval the revised Exhibits become effective as parts of the Delegation Agreement.

I. Background

In a series of meetings this Fall, the FRCC Board of Directors (“Board”) unanimously approved revisions to the FRCC Bylaws for two substantive purposes: (i) to amend the governance provisions to provide for the election by the members of FRCC, voting as sectors, of Alternate Directors; and (ii) to adopt dispute resolution procedures for matters other than

¹ Unless otherwise specified, capitalized terms used herein have the meanings specified in the Delegation Agreement, including the exhibits to the Delegation Agreement.

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disputes covered by the dispute resolution provisions of the FRCC CMEP or other NERC dispute resolution provisions. The Board also approved revisions to clarify the existing intent of certain provisions of the Bylaws.

The Board, with the advice of legal counsel, concluded that the amended governance provisions were warranted and appropriate to ensure that the selection and functions of Alternate Directors are consistent with the requirements of applicable Florida law. As a separate matter, the dispute resolution procedures are necessary to specify alternate dispute resolution procedures for disputes other than disputes covered by the CMEP or other NERC dispute resolution provisions. In particular, the added provisions would apply to disputes arising in connection with Member Services Activities (as that term is defined in the Bylaws).

Additional details on the revisions to the Bylaws are set forth below.

Article IX of the Bylaws establishes a Board Compliance Committee ("BCC"), which acts as the hearing body for FRCC acting as a Regional Entity. The BCC hears disputes relating to findings of an alleged violation, a proposed penalty or sanction, or a proposed mitigation plan. Section 9.1 of Article IX has been revised to permit Alternate Directors to participate on the BCC. Exhibit D to the Delegation Agreements sets forth the FRCC CMEP. The language of Section 2.0 of the CMEP is essentially the same as that of Section 9.1 of the Bylaws. Accordingly, conforming changes have been made to Section 2.0, as discussed further below.

Clean and redlined versions of the revised Bylaws are provided as Attachments 1 and 2 to this letter. Clean and redlined versions of revised Exhibit D are provided as Attachments 3 and 4 to this letter.

Upon approval, the revised Bylaws would become Exhibit B to the Delegation Agreement, and the revised language in Section 2.0 would be adopted in Exhibit D to the Delegation Agreement.

II. FRCC Governance: Alternate Directors

The FRCC Bylaws as in effect prior to these revisions permit a Director who is unable to attend a meeting to designate, in writing, an alternate to act on behalf of that Director. While this provision has functioned well and without objection, FRCC has concluded that under the provisions of Florida law applicable to it as a Florida corporation it would be preferable for alternates for each Director to be elected on the same basis as the Director for which the person serves as an Alternate Director. Thus, revised Section 3.2(b)(1) of the Bylaws provides that "the

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Voting Members in a Sector may elect, by majority vote, an Alternate Director for each Director.”

The revisions in this Section and Section 3.2(f) specify certain appropriate qualifications for service as an Alternate Director. Revised Section 3.2(c) provides that an Alternate Director shall have all the powers and duties of the Director for which the person serves as an alternate, in any instance in which FRCC is notified in writing that the Director is unable to attend a meeting of the Board or of a Board committee. Revised Section 3.2(d) specifies the term of office for Alternate Directors. Under the revised Bylaws, the use of Alternate Directors does not change the balance or voting strength of the Sectors in which Voting Members of FRCC participate in the governance of FRCC. See Sections 3.2(a) and (e), and Section 3.2(b)(1) (specifying that “under no circumstance shall the total votes of the Directors or their Alternate Directors for a Sector exceed the total votes of the Directors of each such Sector specified in Section 3.2(e).”). There are a number of conforming changes consistent with the foregoing throughout Article III of the Bylaws, as well as in Sections 2.1, 7.1(a) and 9.1, to make clear that an Alternate Director can carry out the powers and duties of the Director for which her or she is the alternate whenever the Alternate Director is appropriately acting in place of the relevant Director.

III. Conforming Revisions to the CMEP

Section 2.0 of the CMEP, Exhibit D to the Delegation Agreement, deals with “Regional Hearing of Compliance Matters.” The language of Section 2.0 parallels that of Section 9.1 of the Bylaws. Accordingly, revisions were approved by the Board to Section 2.0 to continue the parallel construction by incorporating the ability of Alternate Directors to serve on the BCC. Service on the BCC by Alternate Directors is appropriate in light of their qualifications and election, and will materially facilitate the ability of the BCC to fulfill its obligations. To this end, a sentence was added by the Board to Section 2.0 specifying that: “Once appointed to a hearing, a Director or Alternate Director shall serve throughout the hearing’s duration.” This additional detail in the CMEP on the operation of the BCC will ensure continuity in the composition of the hearing body, and that its members are available to hear all the evidence and other information relevant to its decision.

IV. FRCC Dispute Resolution Procedures for non-CMEP Matters

The revised Bylaws include a new Article XI to fill a current deficiency in the FRCC governing documents: the absence of generally applicable dispute resolution provisions for controversies arising from the acts or omissions by FRCC, or by a FRCC Member in its capacity as a FRCC member, other than controversies covered by the CMEP or other NERC dispute resolution provisions. To fill the gap, the Board adopted the provisions in new Article XI of the

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revised Bylaws. These dispute resolution provisions are non-binding, but provide a sequence of steps, including settlement discussions, mediation, arbitration, and Board consideration, through which the parties to a dispute can achieve the equitable, efficient and expeditious resolution of disputes.

Section 11.1 of new Article XI states that:

These procedures do not apply to disputes that are covered by the dispute resolution provisions of the FRCC Compliance Monitoring and Enforcement Program (Exhibit D to the Delegation Agreement between FRCC and NERC) or other NERC dispute resolution provisions, and do not supersede, unless agreed to by the parties, any dispute resolution agreement between the parties applicable to the dispute, including, without limitation, dispute resolution procedures set forth in Members' Open Access Transmission Tariffs.

In addition, if the dispute resolution steps are not successful, under Section 11.4(e) the parties can, if applicable, initiate a proceeding before the Commission.

V. Clarifying Revisions

In addition to the revisions to Article III of the Bylaws relating to Alternate Directors, revisions to Section 3.2(a) make clear that the right of a Sector under Section 3.2(b)(1) to elect additional Directors to participate in Board meetings was not intended to affect the allocation of Directors among the Sectors. This moves and rewords language previously found in Section 3.2(b)(4) of the Bylaws. The remaining provision of Section 3.2(b)(4) has been moved to Section 3.2(b)(1). Revisions to Section 3.10 clarify that a person elected to fill a vacancy among the Board officers shall serve for a term equal to the remaining term of the person being replaced. This revision clarifies the original intent of the Bylaws, and is also not a substantive change. Similarly, a revision to Section 5.1 clarifies that the standing or other committees of FRCC are not committees of the Board, and are not authorized to take actions reserved to the Board, unless so specified by the Board. Like the other revisions discussed in this paragraph, this revision also clarifies the original intent of the Bylaws, and is not a substantive change.

VI. Conclusion

As can be seen from the foregoing descriptions, none of the revisions to the Bylaws affect the qualifications of FRCC to serve as a Regional Entity with delegated authority from NERC, nor will the revisions have any adverse effect the ability of FRCC to function as a Regional Entity under the Delegation Agreement. Accordingly, in light of reasons for and description of



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the Bylaws revisions adopted by the FRCC Board set forth above, FRCC requests that NERC approve the revisions as consistent with the Delegation Agreement, and forward the revised Bylaws to the Commission for approval and adoption as a replacement for Exhibit B to the Delegation Agreement. FRCC also requests approval of the related revisions to Exhibit D to the Delegation Agreement.

Please let me know if you have any questions about any of the foregoing.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill", written in a cursive style.

William F. Young

Enclosures
cc: Ms. Sarah S. Rogers

ATTACHMENT 2

EXHIBIT B TO NERC-FRCC DELEGATION AGREEMENT (FRCC BYLAWS) –

REDLINED TO SHOW PROPOSED AMENDMENTS

**EXHIBIT B
TO PRO FORMA DELEGATION AGREEMENT**

**BYLAWS
Florida Reliability Coordinating Council, Inc.**

Amended ~~December 15, 2010~~ December 15, 2011

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**BYLAWS OF
FLORIDA RELIABILITY COORDINATING COUNCIL, INC.**

ARTICLE I

Membership

Section 1.1 Eligibility.

(a) Membership in the Florida Reliability Coordinating Council, Inc. ("FRCC") is open to any entity, without cost, that: (i) has a material interest in the reliability of the bulk power system in the FRCC region; (ii) satisfies the criteria for membership specified in this Section 1.1; (iii) qualifies for eligibility in one or more of the Sectors identified in Section 1.2; (iv) submits a written request for membership; and (v) agrees to comply with and be bound by these FRCC Bylaws ("Bylaws") and other rules and regulations adopted by the FRCC Board of Directors, by execution of the appropriate form of Member Agreement set forth in Appendix A to these Bylaws ("Member Agreement"). Any person or entity that meets the foregoing requirements shall become a "Member" of FRCC.

(b) FRCC shall engage in two categories of activities:

(i) FRCC shall engage in the "Regional Entity Activities" specified in Section 1 of Exhibit E of the Delegation Agreement between FRCC and the North American Electric Reliability Corporation ("NERC") dated May 2, 2007, as amended from time to time with the agreement of NERC and the approval of the Federal Energy Regulatory Commission ("Delegation Agreement"). Under the Delegation Agreement, FRCC is the Regional Entity, as defined in Sec. 215 of the Federal Power Act, with delegated authority to propose and enforce Reliability Standards for the bulk power system in the FRCC Region. The FRCC Region is defined as the geographic area of Florida east of the Apalachicola River.

(ii) FRCC shall engage in certain "Member Services Activities," under which it provides, coordinates or administers a variety of services relating to the planning and operation of the bulk power system in the FRCC Region for or on behalf of entities meeting the criteria in Section 1.1(c)(ii) and participating in the funding of such services as specified in these Bylaws. The "Member Services" are specified in the business plan and budget approved by the Board of Directors in accordance with these Bylaws for submission to NERC under the Delegation Agreement, and as approved by NERC and the Federal Energy Regulatory Commission ("Business Plan and Budget"). Member Services are funded as specified in Section 6.2 of these Bylaws.

(c) FRCC shall have two types of Members:

(i) All Members of FRCC shall be “Regional Entity Members.” Regional Entity Members shall be eligible to participate in the Regional Entity Activities of FRCC. Such participation shall be in accordance with these Bylaws, the Member Agreement, and the Delegation Agreement, as from time to time adopted or amended and approved, and such other requirements as govern FRCC as a Regional Entity.

(ii) All Members that participate in the generation, marketing, transmission or purchase for resale of electric energy, ancillary services or capacity on, from or to the bulk power system in the FRCC Region may choose to be “Services Members,” and may participate in FRCC Member Services Activities as specified in these Bylaws. Subject to the requirements of Section 1.2, only Members that are Services Members shall be eligible to participate in decisions governing the Member Services of FRCC, or the voting rights and funding obligations of Services Members.

Section 1.2 Voting Member. A Voting Member is a Member that is not an Affiliate Member or an Adjunct Member. All Voting Members shall be eligible to vote on questions governing Regional Entity Activities. Only Voting Members that are Services Members shall be eligible to vote on questions governing Member Services or Member Services Activities. For purposes of the following Sector classifications, “Load Serving Entity,” whether standing alone or as part of another specified term, shall mean an entity that provides electric service to persons or entities other than the Load Serving Entity itself that purchase such service for their own use and not for resale. Voting Members shall be classified into one of the following Sectors, based on the primary nature of its activities in the FRCC Region relevant to Regional Entity Activities:

(a) **Suppliers Sector** - any entity engaged in wholesale power marketing transactions in the FRCC Region; or a generating entity that is included in the NERC Compliance Registry as a generation owner or generation operator for a facility in the FRCC Region, or that owns or is developing generation greater than 20 MW located within the FRCC Region and meets any of the following: (1) an entity with FERC-approved market-based rate authority, or (2) an exempt wholesale generator, or (3) a facility selling any output pursuant to a power purchase agreement (including fuel conversion arrangements), or (4) a FERC approved Qualifying Facility.

(b) **Non-Investor Owned Utility Wholesale Sector** - generation and transmission cooperatives and municipal joint action agencies that sell electricity to non-investor owned Load Serving Entities with native load in the FRCC Region.

(c) **Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates less than 25% of its energy requirements for retail sales or has an annual Full Requirements Energy for Load (FREL) of 1800 GWH or less in the FRCC Region.

(d) **Generating Load Serving Entity Sector** - any Load Serving Entity that is not investor owned and that generates at least 25% of its energy requirements for retail sales, and that has an annual Full Requirements Energy for Load (FREL) greater than 1800 GWH in the FRCC Region.

(e) **Investor Owned Utility Sector** - investor owned utilities generating and serving retail native load greater than 15,000 GWH in the FRCC Region.

(f) **General Sector** - persons or entities that take delivery of energy within the FRCC Region that is not purchased for resale; agents or associations representing groups of such entities that are commercial or industrial entities; agents or advocate groups representing small customers; and other persons or entities owning assets or engaging in commercial activities in the FRCC Region.

Section 1.3 Affiliate Member. An Affiliate Member is defined as an entity that (i) otherwise qualifies as a Voting Member pursuant to Section 1.1 and 1.2 and (ii) is an Affiliate of a Voting Member. For purposes of these Bylaws, being an “Affiliate” shall mean that (1) a Voting Member controls, is controlled by or is under common control with, such Affiliate Member, and (2) for any exempt wholesale generator, as defined the Public Utility Holding Company Act of 2005, as amended, the meaning provided in Section 214 of the Federal Power Act. Affiliate Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Affiliate Members shall be bound by the same obligations as Voting Members and Adjunct Members of FRCC. Questions as to whether an entity is an Affiliate of a Voting Member shall be resolved by the Board.

Section 1.4 Adjunct Member. A person or entity may be approved as an Adjunct Member by the Board if such entity has a material interest in the reliability of the bulk power system in the FRCC region but does not meet the definitions and requirements to join as a Voting Member or Affiliate Member. Adjunct Members shall have no right to vote on any matter, nor any right to be elected or appointed to the Board. Except as to funding, Adjunct Members shall be bound by the same obligations as Voting Members and Affiliate Members of FRCC.

Section 1.5 New Members. The Board shall review and act upon membership applications. Prior to membership, the Board shall certify that an applicant complies with the eligibility requirements.

Section 1.6 Membership Commitment. Each Member of the FRCC shall be required to execute, in counterpart, a Member Agreement, as applicable, in the form shown in Appendix A to these Bylaws.

Section 1.7 Obligations.

(a) Each Member of the FRCC shall promote, support and comply with the purposes and policies of the FRCC as set forth in its Certificate of Incorporation and Bylaws, and the other documents governing the activities of FRCC identified in the Bylaws.

(b) Each Member of the FRCC shall appoint a representative as provided herein to receive notices from the FRCC and shall give to the FRCC Chief Executive Officer (“CEO”) in writing (signed by a duly authorized representative of the Member) the name, business address and electronic address of the person thus appointed. An appointed representative of a Member who is unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Member.

Section 1.8 Participation.

(a) For purposes of these Bylaws, an entity and all of its Affiliates shall be considered one "Entity." No Entity shall simultaneously hold more than one Voting Member status or have more than one voting representative on a Standing Committee, or more than one seat on the Board.

(b) An Entity may join FRCC in any Sector in which it qualifies for Membership, provided that an Entity may join as a Voting Member in only one Sector. In the event that an Entity qualifies for more than one Sector, such Entity may join such other Sectors as an Affiliate Member upon payment of any applicable Affiliate Member Annual Fees in accordance with Article VI Section 6.2(b)(ii) for each Sector in which such Entity desires to participate as an Affiliate Member. Once an Entity has elected to be a Voting Member of one Sector, the Entity must continue to vote in that Sector for a minimum of one (1) year. If, at any point, it is determined that an Entity no longer meets the qualifications for the Sector it selected, the Entity may not vote in that Sector; however, that Entity may then immediately elect to become a Voting Member in any Sector for which it does qualify. Questions as to whether an Entity meets the qualifications of a Sector shall be resolved by the Board.

(c) Subject to the requirements of these Bylaws and the Articles of Incorporation, each Voting Member in good standing is entitled to vote on each matter submitted to a vote of the Voting Members. A Member in good standing is one that (i) meets all qualifications for membership as provided in these Bylaws, (ii) is not in arrears for payment of any applicable annual fees for membership or payment of any other fees owed to FRCC unless such payment is being disputed in good faith, and (iii) has not been found by a court to be in breach of any contract with FRCC. Voting Members that are not in good standing are not entitled to vote on any matter until they have regained good standing.

ARTICLE II

Meetings of Voting Members

Section 2.1 Annual Meeting of Voting Members. Voting Members shall meet at least annually on a date and at a place to be established by the Board ("Annual Meeting"). The Voting Members from each Sector shall elect, by majority vote, each Voting Member having one (1) vote, Directors and, if desired, Alternate Directors to the Board who will represent their Sector. The Voting Members shall conduct such other business as may be properly brought before them. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. The Annual Meeting shall be open to Affiliate Members and Adjunct Members, and such other invitees as the Board may deem appropriate, provided that the Services Members, along with Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), may meet separately to consider matters relating to Member Services.

Section 2.2 Special Meetings. Special meetings of the Voting Members, for any purpose or purposes, unless otherwise prescribed by the laws of the State of Florida, or by the Articles of Incorporation, may be called by the Chair of the Board. Special meetings of the Regional Entity Members shall be called upon request of six (6) or more Voting Members representing three (3) or more Sectors. Special meetings of the Services Members shall be called upon request of six (6) or more Voting Members that are Services Members representing three (3) or more Sectors. Notice of a special meeting stating the place, date, hour and agenda for the special meeting shall be given to the Voting Members not less than three (3) business days before the meeting. Such request for a special meeting shall state the purpose or purposes of the proposed special meeting, which shall be included as part of an agenda to be distributed to the Voting Members not less than three (3) business days before the meeting. Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other.

Section 2.3 Place of Meeting. All meetings shall be held at or near the principal office of the FRCC in Tampa, Florida, or at such other place within or outside the State of Florida as shall be determined from time to time by the Board.

Section 2.4 Notice of Meetings.

(a) Notice of the Annual Meeting or any regular or special meeting of the Voting Members shall be sent by mail or electronic means to each Member's representative at the business or electronic address specified in accordance with Section 1.7(b) at least ten (10) business days before the date of the meeting. The notice shall set forth a proposed agenda for the meeting, but any matter may be considered and acted upon at any meeting, whether or not the matter was listed in the proposed agenda, if addition of the item to the agenda is approved at the meeting by the vote of the eligible Voting Members whose votes equal sixty percent (60%) or more of the total weighted sector vote of the eligible Voting Members; provided, however, that at least three (3) Sectors are represented in the affirmative. Meetings may be held at any time without notice if all of the eligible Voting Members are present, or if those not present waive notice in writing either before or after the meeting.

(b) The record date for determining Members entitled to notice shall be one month prior to the meeting date.

Section 2.5 Quorum. Representation at any meeting of the Regional Entity Members of more than 50% of the Voting Members, or representation at any meeting of the Services Members of more than 50% of the Voting Members that are Services Members, shall constitute a quorum for the transaction of business at such meeting; provided, however, that in each case at least four (4) eligible Sectors are represented.

Section 2.6 Voting. Voting by Voting Members shall be by the six (6) Sectors as defined in Section 1.2, except as otherwise provided herein. Each Voting Member within a Sector has one non-divisible vote. Each Sector shall have a "Sector Vote" in proportion to the voting rights specified in Section 3.2(e), which is to be split into an affirmative and a negative component, in the proportion that each component bears to the total votes of the Voting

Members within that Sector. Action by the Voting Members shall require affirmative Sector Votes greater than 6.50.

Section 2.7 Action without Meeting. Any action that may be taken at a meeting of the Regional Entity Members or the Services Members may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed by all Voting Members eligible to vote in such meeting before the action is taken.

Section 2.8 Remote Attendance. Any Member otherwise eligible may participate in any meeting by telephone, videoconference communications equipment, or other means enabling all persons participating in the meeting to communicate with each other. A Member participating in a meeting by such means shall be deemed present in person at such meeting.

Section 2.9 Termination of Members.

(a) A Member may be terminated for non-payment of fees or monies due FRCC as provided in Section 6.3, or for a significant violation of obligations as set forth in Section 1.7. The Board may, by resolution, establish a fair and reasonable procedure to terminate a Member.

(b) A Member whose membership has been terminated shall be liable to FRCC for fees and any other monies due FRCC as a result of obligations incurred or commitments made prior to termination.

Section 2.10 Withdrawal. Any other provision of these Bylaws notwithstanding, any Member may withdraw from participation in the activities of FRCC at any time upon written notice to the CEO, whereupon it shall cease to be a Member and shall cease to be entitled or obligated to participate in the activities of the Board, Standing Committees, or any subcommittees, and shall have no further obligations as a Member; provided, however, that if such notice is given more than thirty (30) days after such Member's receipt of its statement of fees and expenses for a fiscal year, the Member shall be obligated to pay its fees and other monies due to FRCC for the full fiscal year within which such termination is effective.

Section 2.11 Reinstatement. A former Member shall be required to apply for Membership as set forth in Section 1.1. The Board may reinstate Membership on any reasonable terms that the Board deems appropriate.

Section 2.12 Property Ownership and Control. Subject to applicable laws, rules, regulations, agreements, and FRCC protocols, each Member shall retain sole control of its own facilities and the use thereof, and nothing in these Bylaws shall require a Member to construct or dedicate facilities for the benefit of any other electric system or allow its facilities to be used by any other Member or to construct or provide any facilities for its own use, and nothing herein shall be deemed to impair the ability or right of any Member to take such actions or to fail to act, as it deems necessary or desirable, with respect to the management, extension, construction, maintenance and operation of its own facilities, present and future. A Member has no interest in the property of FRCC and waives the right to require a partition of any FRCC property.

ARTICLE III

Board of Directors

Section 3.1 Powers. The affairs of FRCC shall be managed by the Board of Directors ("Board"). The Board may exercise all such powers of the FRCC and do all such lawful acts and things as are not prohibited by the laws of the State of Florida, by the Federal Power Act, by the Articles of Incorporation or by these Bylaws.

Section 3.2 Number, Election, Tenure and Governance.

(a) Number. ~~The Board shall include (16)~~**number of Directors shall be not less than sixteen (16), not including those additional Directors that may be elected pursuant to the third sentence of Section 3.2(b)(1).** Directors **shall be** allocated among the Sectors as follows, ~~and such other Directors as provided in by Section 3.2(b)(4):~~

- (1) Suppliers Sector- three (3) Directors
- (2) Non-Investor Owned Utility Wholesale Sector - two (2) Directors
- (3) Load Serving Entity Sector-
 - Municipal - one (1) Director
 - Cooperative - one (1) Director
- (4) Generating Load Serving Entity Sector - three (3) Directors
- (5) Investor Owned Utility Sector - Three (3) Directors
- (6) General Sector - Two (2) Directors
- (7) The CEO of FRCC - an ex-officio non-voting Director.

(b) Election.

(1) Directors, with the exception of the CEO, shall be elected as described herein. **Directors allocated to a particular Sector shall be elected by the Voting Members of such Sector, by majority vote. In addition, within each Sector, Voting Members from that Sector may, by majority vote, elect additional Directors, subject to a maximum of five (5) Directors representing such Sector. Finally, the Voting Members in a Sector may elect, by majority vote, an Alternate Director for each Director. Each Alternate Director shall be designated as an alternate for a particular elected Director of that Sector. To be eligible, an Alternate Director shall either be a direct report to the Director for which that person is the designated Alternate Director, or a senior officer or manager of the Voting Member represented by the Alternate Director. Notwithstanding the foregoing, under no**

circumstance shall the total votes of the Directors or their Alternate Directors for a Sector exceed the total votes of the Directors of such Sector specified in Section 3.2(e).

(2) Within each Sector, only Voting Members from a given Sector may elect Directors or Alternate Directors for that Sector.

(3) Within the Load Serving Entity Sector, Director(s) representing 0.5 votes shall all be from a municipal and Director(s) representing 0.5 votes shall be from a cooperative. ~~(4) Within each Sector, Voting Members from a given Sector may, by majority vote, elect additional Directors subject to a maximum of five (5) Directors representing such Sector. The total votes of the Directors for such Sector shall not exceed the total votes of the Directors of such Sector specified in Section 3.2(a).~~

(c) Alternate Director. ~~Any Director unable to attend a meeting may designate, in writing, an alternate to act on behalf of the Director.~~ Each Alternate Director shall be vested with all the powers and duties of the Director for which he or she serves as an alternate in the event that such Director or the Voting Member represented by such Director notifies FRCC in writing (by letter, email or facsimile) in advance that the Director is unable to attend a particular Board meeting or Board committee meeting. Unless otherwise specified, references in these Bylaws to the powers, duties or responsibilities of Directors shall include any Alternate Director acting in place of a Director. If the related Director is present at a Board meeting or Board committee meeting, the Alternate Director may attend such meeting, but shall not have any vote, nor have any authority to speak on any issue, absent recognition by the chair of the meeting.

(d) Term. The term for all Directors and Alternate Directors shall be two (2) years. Any Director or Alternate Director may be reelected for consecutive terms, without limitation. Directors and Alternate Directors within a Sector shall have staggered terms as determined by the Sector.

(e) Voting Rights.

(1) Except as provided for in subsections (2) and (3) below, each Sector shall have the number of votes as specified below:

• Suppliers Sector	2.5 Votes
• Non-Investor Owned Utility Wholesale Sector	2.0 Votes
• Load Serving Entity Sector	
- Municipal	0.5 Votes
- Cooperative	0.5 Votes
• Generating Load Serving Entity Sector	3.0 Votes
• Investor Owned Utility Sector	3.5 Votes
• General Sector	1.0 Vote

Total 13.0 Votes

- (2) Each Director, as defined in Section 3.2(a) and 3.2 (b), shall have an equal proportional vote of that Sector's total voting strength. This provision shall apply separately to the municipal and cooperative Directors of the Load Serving Entity Sector.
- (3) If the majority of the Voting Members of a Sector are Services Members, Directors elected by that sector shall be deemed "Services Member Directors." Only Services Member Directors shall be eligible to vote on questions governing Member Services or Member Services Activities. Deliberations on such matters may be limited to Services Member Directors, Voting Members that are Services Members, and Affiliate and Adjunct Members that have paid the fees specified in Section 6.2(b)(ii) or (iii), upon the vote of the Services Member Directors.
- (4) The CEO of FRCC shall not have a vote.

(f) Limitations. Each ~~person~~**Director** or ~~alternate~~**Alternate Director** serving on the Board shall be a representative of a Voting Member. Unless otherwise provided in these Bylaws, if a representative of a Voting Member is elected to serve on the Board, such person shall only be eligible to serve in such capacity so long as such person remains the representative of said Voting Member. A Voting Member shall not have more than one (1) officer, employee or agent serving as a Director, **but each Director may have an Alternate Director.**

Section 3.3 Meetings. Regular meetings of the Board shall be held at such times and places, within or outside the State of Florida, as may be determined by the Board. Special meetings of the Board may be called by the Chair. Special meetings shall be called upon request of six (6) or more Directors. Regular or Special Meetings may be held by telephone conferencing, video conferencing or by other means enabling all participants in the meeting to communicate with each other. Except as specified in Section 3.2(e)(3), the meetings of the Board shall be open to all Members, and such other invitees as the Board may deem appropriate. The Board may meet in closed session to discuss matters of a confidential nature, including but not limited to personnel matters, litigation, or commercially sensitive information of any person or entity.

Section 3.4 Notice of Meetings. Notice of any regular or special meeting of the Board shall be sent by mail or electronic means to each Director, and to each Member, at such Director's and Member's usual place of business at least (ten) 10 business days, in the case of a regular meeting, or (five) 5 business days, in the case of a special meeting, before the date of the meeting. Such notice shall also be sent to the observers of the Board specified in Section 8.1. The notice shall set forth a proposed agenda for the meeting. Subject to the requirements of Section 3.2(e)(3), no agenda item may be added to the agenda at any meeting of the Board which requires action by the Board unless all Directors are present and all agree to allow such an item to be put to a vote. Meetings may be held at any time without notice if all of the Directors of the Board **(or the Alternate Directors for absent Directors)** are present, or if those not present waive notice in writing either before or after the meeting.

Section 3.5 Quorum. The presence at a meeting of the Directors or Alternate Directors whose votes equal sixty percent (60%) or more of the total voting strength of the Board, or in the case of matters governed by Section 3.2(e)(3), votes equal to sixty percent (60%) or more of the total voting strength of the Directors or Alternate Directors eligible to vote, shall constitute a quorum for any action of the Board, provided, however, that in each case at least one Director or Alternate Director from at least four (4) Sectors ~~are~~is present. If at any meeting a quorum shall fail to attend, a majority of those Directors or Alternate Directors present at the meeting may adjourn that meeting without further notice until a quorum shall attend. Once a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.6 Voting. Action by the Board shall require approval of sixty percent (60%) or more of the total eligible voting strength of the Board.

Section 3.7 Remote Attendance. Directors or Alternate Directors shall be deemed present and voting at a meeting of the Board if participating in the meeting by means of a conference telephone, video conferencing, or other means enabling all persons participating in the meeting to communicate with each other.

Section 3.8 Action without Meeting. Any action that may be taken at a meeting of the Board may be taken without a meeting if consent in writing, setting forth the action so to be taken, shall be signed before the action by all of the Directors (not the Alternate Directors) eligible to participate in such action.

Section 3.9 Vacancies and Removal. A Director or Alternate Director may be removed with cause at any time by an affirmative vote of 60% of the Voting Members of the Sector that elected that Director or Alternate Director. In addition, the Board may remove a Director or Alternate Director for cause, upon at least seventy-five percent (75%) affirmative votes of the remaining total voting strength of the Board. The right to elect Directors or Alternate Directors may not be assigned, sold, pledged or transferred in any manner. A vacancy may be filled only by the Voting Members of the Sector in which the vacancy occurs. Any Director or Alternate Director so chosen shall hold office until his or her successor is duly elected and qualified or until his or her earlier resignation, ineligibility or removal.

Section 3.10 Officers. At the Board of Directors meeting following the Annual Meeting of the Voting Members (or at any Regular or Special Meeting, with respect to election of a replacement officer pursuant to Section 3.12), the Board shall elect from the Directors (excluding for these purposes the Alternate Directors) a Chair, Vice Chair, and Secretary-Treasurer, who shall be the officers of the FRCC. No two officers of FRCC shall be officers, employees or agents of Voting Members of the same Sector or its Affiliates. The CEO of FRCC may not be elected to act as Chair, Vice-Chair or Secretary/Treasurer.

(a) **Term of Office.** Each officer of the Board of Directors (other than a replacement officer pursuant to Section 3.12, who shall be elected to complete the term of the officer he or she is replacing) shall hold office for two (2) fiscal years, and until his or her successor is duly elected and qualified.

(b) Removal of Officers. Any officer of the Board of Directors may be removed with or without cause at any time by the affirmative vote of seventy percent (70%) of the total voting strength of the Board.

(c) Compensation. There shall be no compensation paid to any officer of the Board of Directors of FRCC, provided that an officer serving on the staff of FRCC may be compensated for ~~their~~ his or her services on the staff of FRCC.

Section 3.11 Responsibilities of Board of Director Officers

(a) Chair. The Chair shall serve as the Chair of the Board. The Chair shall preside at all meetings of the Members and Board, provided that, if the Chair is not eligible to vote in a meeting governed by Section 3.2(e)(3), the Directors or Alternate Directors that are eligible shall select one of ~~the~~ their number to preside at such meeting. The Chair shall be responsible for the preparation of the agenda for all meetings of the Members and Board. The Chair shall be a member of and preside over a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(b) Vice Chair. The Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair, subject to the provisions of Section 3.11(a), and shall perform such other duties and have such other powers as the Board may from time to time prescribe. The Vice Chair shall be a member of a Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

(c) Secretary-Treasurer. The Secretary-Treasurer shall be responsible to assure that the FRCC staff has adequate procedures to distribute the agenda of the meetings of the Voting Members and the Board, keep the minutes of the proceedings of said meetings, and maintain the financial books and records of the FRCC, including disbursement of the funds of the FRCC in accordance with the authorized annual budget. The Secretary-Treasurer shall be a member of the Personnel and Compensation Committee, which shall have responsibilities for such matters relating to staff.

Section 3.12 Vacancy. Any vacancy in a Board of Director ~~Officer~~ officer occurring for any reason shall be filled as specified in Section ~~3.9.~~ 3.10.

ARTICLE IV

Chief Executive Officer

Section 4.1 CEO. The Board shall hire the CEO who, under the Board's direction, shall carry on the general affairs of the FRCC. The CEO shall be a member of the staff of FRCC and shall be a non-voting Director. It shall be the CEO's duty to approve the expenditure of the monies appropriated by the Board in accordance with the Budget approved by the Board. The CEO shall make an annual report and periodic reports to the Board concerning the activities of FRCC. The CEO shall serve as President of FRCC. The CEO shall comply with all directives of

the Board. All agents and employees shall report, and be responsible, to the CEO. The CEO shall perform such other duties as may be determined from time to time by the Board.

ARTICLE V

Standing Committees

Section 5.1 Standing Committees. There shall be a Planning Committee, an Operating Committee, a Compliance Committee, and such other committees, subcommittees, and task forces as the Board may appoint, when deemed necessary to carry out the purposes of the FRCC. **Unless otherwise specified by the Board, none of the Planning Committee, Operating Committee, Compliance Committee, or such other committees, subcommittees, and task forces shall be a committee of the Board, and no such committee shall have any authority to take action otherwise reserved to the Board by statute.**

Section 5.2 Planning Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Planning Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Planning Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Planning Committee shall report directly to the Board and is charged with the responsibility of promoting the reliability of the bulk power system in the FRCC Region, and assessing and encouraging generation and transmission adequacy. The Planning Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.3 Operating Committee. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Operating Committee. A representative may, if unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Affiliate Members and Adjunct Members may appoint a non-voting representative to serve on the Operating Committee. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Operating Committee shall report directly to the Board and is charged with responsibility for the coordination, operations planning, operation and maintenance of the bulk power system in the FRCC Region. The Operating Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.4 Compliance Committee. The FRCC Regional Entity compliance staff is responsible for the effective and efficient implementation of the NERC Compliance Monitoring and Enforcement Program to meet the guidance of NERC and FERC. The Compliance Committee is charged with the responsibility of promoting reliability of the bulk power system within the FRCC region through compliance related activities. Each Voting Member may appoint one (1) representative, empowered to vote on behalf of the Voting Member, to serve on the Compliance Committee. A representative may, if

unable to attend a meeting, designate, in writing, an alternate to act on behalf of the representative. Quorum and Voting Rights shall be as defined in Sections 5.7 and 5.8. The Compliance Committee shall report directly to the Board and is separate and distinct from the Board Compliance Committee which is primarily a “hearing body” and has a different voting structure as outlined in Exhibit D of the Delegation Agreement between the North American Electric Reliability Corporation and FRCC. The Compliance Committee may establish subcommittees and task forces as deemed necessary by its membership.

Section 5.5 Rules of Procedure. Each Standing Committee shall set its rules of procedure, provided that quorum, voting rights and voting shall be as specified in Sections 5.7 and 5.8. Such Rules of Procedure shall be as approved by the Board. All action by any Standing Committee shall be reported as prescribed herein and shall be subject to revision, alteration and approval by the Board.

Section 5.6 Quorum. Representation at any meeting of a Standing Committee of sixty percent (60%) or more of the total voting strength of the Standing Committee shall constitute a quorum for the transaction of business at such meeting; provided, however, that action on matters dealing with the scope or funding of Member Services shall require sixty percent (60%) or more of the total voting strength of members of the Standing Committee representing Voting Members that are Services Members; and provided further that a quorum shall require that at least three (3) Sectors are represented, all three of which shall be Sectors a majority of the members of which are Services Members in the case of a quorum for action on matters governing Member Services.

Section 5.7 Voting. Voting is by Sector. Each voting representative present at a meeting is assigned a vote equal to the voting strength of his or her Sector, as provided in this section, divided by the number of voting representatives present in that Sector, except that no voting representative present at a meeting shall have more than one (1) vote, except an Investor Owned Utility Sector voting representative who may have up to 1.167 votes. Action by a Standing Committee shall require an affirmative vote equal to or greater than sixty percent (60%) of the total eligible voting strength of the Standing Committee.

Sector Votes

(1) Suppliers Sector	2.5 Votes
(2) Non-Investor Owned Utility Wholesale Sector	2.0 Votes
(3) Load Serving Entity Sector	
Municipal	0.5 Vote
Cooperative	0.5 Vote
(4) Generating Load Serving Entity Sector	3.0 Votes
(5) Investor Owned Utility Sector	3.5 Votes
(6) General Sector	1.0 Vote
Total	13.0 Votes

Only representatives of Voting Members that are Services Members shall be eligible to

vote on questions governing Member Services.

Section 5.8 Meetings. Regular meetings of the Standing Committees shall be held at such times and places, within or outside the State of Florida, as may be determined by the Standing Committees. Special meetings of the Standing Committees may be called by the Chair or upon the request of representatives from three (3) different Sectors. Regular or Special Meetings may be held by telephone conferencing, video conferencing, or by other means enabling all participants in the meeting to communicate with each other. The meetings of the Standing Committees shall be open to all Members, and such other invitees as the Board may deem appropriate.

ARTICLE VI

General Provisions

Section 6.1 Budget. The Board shall annually adopt a budget for the FRCC for administrative expenses of the FRCC, including salaries, and for the costs associated with the various committees, subcommittees, professional services, projects and studies. The Board shall approve the scope and funding of Member Services, in accordance with the provisions of these Bylaws. The funding for Member Services special projects approved by the Board may be based on a special funding, with an equitable allocation of the costs for the special project as approved by the Board. The budget may be amended from time to time during the fiscal year as determined by the Board, subject to the filing and approval requirements applicable to FRCC as a Regional Entity under the Delegation Agreement.

Section 6.2 Funding.

(a) The funding of FRCC's Regional Entity Activities shall be in accordance with the provisions of Exhibit E and the section numbered eight (8) of the Delegation Agreement.

(b) The Member Services of FRCC shall be funded through an allocation of their costs to all Members that are Services Members in accordance with the provisions of subsections 6.2(b)(i) - (iii) below. The funding of all Member Services shall be kept separate from the funding of Regional Entity Activities as specified in the Business Plan and Budget.

(i) Services Members. The allocation for Voting Members that are Services Members shall be based on the following calculation; provided, however, that in no event shall the allocation be less than \$20,000 per annum.

$$\text{Services Member Allocation} = 0.25 (1/N) + 0.25 (B/C) + 0.25 (D/E) + 0.25 (F/G)$$

N Total number of voting Services Members

B Voting Services Member's previous-year Full Requirements Energy for Load (FREL) within the FRCC

- C Total of factor B for all voting Services Members
- D Voting Services Member's Net Summer Generating Capacity within the FRCC Region as of December 31 of the previous year, as defined in the FRCC Load and Resource Plan
- E Total of factor D for all voting Services Members
- F Sum of Circuit Miles of Transmission Facilities (69kV and above) of voting Services Members within the FRCC Region times the respective operating voltage as of December 31 of the previous year
- G Total of factor F for all voting Services Members

Full Requirements Energy for Load (FREL) The net electrical energy requirements of the Services Member's electric system, and the net electric energy requirements of all full requirements customers of the Services Member, except if a full requirements customer of a Services Member joins FRCC. In such case, the electrical energy requirements of such full requirements customer will only be counted for the funding calculation for that Services Member who is the full requirements customer, and not for the Services Member who is the supplier of the full requirements. There should be no double counting of FREL between Services Members.

Net Summer Generating Capacity The maximum summer rated capacity, modified for ambient limitations, that a generating unit can sustain over a specified period, less the capacity used to supply the demand of station service or auxiliary needs. For jointly owned units, the Net Capacity will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

Circuit Miles of Transmission Facilities The distance (following the path of transmission facility) in miles between substations or switching stations times the number of circuits at the same voltage level. For jointly owned transmission facilities, the Circuit Miles of Transmission Facilities will be allocated based on the ownership share of each Services Member who is a joint owner, unless otherwise mutually agreed by the joint owner Services Members.

(ii) Affiliate Members. The fee for an Affiliate Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Affiliate Member, only participating in Regional Entity Activities, shall be waived.

(iii) Adjunct Members. The fees for an Adjunct Member that wishes to participate in Member Services activities shall be \$5,000 per annum. The fee for an Adjunct Member, only participating in Regional Entity Activities, shall be waived.

Section 6.3 Fees. The Member Services membership fee shall be due and payable concurrent with the submission of the written application for membership. The initial

membership fee will be prorated on an annual basis depending upon the quarter in which a Member joins. Thereafter, membership fees shall be due and payable on or before January 1st of each year or in installments as determined by the Board. The FRCC shall notify, in writing, any Member who is delinquent in the payment of any applicable membership fee. The notice shall provide a time certain, not to exceed thirty days (30) days from the date of the written notice, during which any such delinquency may be cured. Failure to cure a delinquency within the stated time will result in the loss of all membership rights and designations. In the event of an uncured lapse in the payment of a fee, membership in the FRCC shall be terminated.

Section 6.4 Staff. The FRCC shall employ a staff, including the CEO, to carry out the objectives of the organization. The CEO shall be a non-voting Director of the Board. The duties of the CEO are as defined in Article IV, Section 4.1.

Section 6.5 Expenses. The personal expenses of each Member, Director and Alternate Director participating in the activities of the FRCC and its committees and subcommittees shall be borne by the Member on whose behalf such person is acting, unless determined otherwise by the Board.

Section 6.6 Minimum Sector Membership. If the number of Voting Members of a Sector is not greater than one (1), such Sector shall not be entitled to a vote at the Voting Members meetings, Board of Directors meetings, or the Standing Committee meetings.

Section 6.7 Indemnification. The FRCC shall indemnify and hold harmless, to the maximum extent permitted by law, any Member, Director, Alternate Director, Member representative, agent, officer or employee of the FRCC and the heirs, estates, successors or assigns of any of them, from any and all claims or liabilities, including costs or attorneys' fees for defending against assertion of any such claim or liability, arising from any act or failure to act of such person for, on behalf of, or at the direction of the FRCC, unless such act or failure to act constituted a willful violation of state, federal or local law, willful misconduct, or gross negligence. With the approval of the Board, the FRCC may reimburse costs, attorneys fees, and other expenses for defending against assertions of any such claims or liabilities prior to the final disposition of any such proceeding. The foregoing rights to be indemnified, held harmless, or reimbursed shall not operate in derogation or prohibition of any other rights which the person indemnified, held harmless or reimbursed may have. The FRCC, by vote of the Board, shall purchase insurance against all or any part of the liabilities which may be incurred by the FRCC and may cause the FRCC to indemnify and hold harmless as and to the extent it may deem appropriate such other person or persons as it may deem appropriate.

Section 6.8 Fiscal Year. The fiscal year of the FRCC shall be the twelve (12) month period of January 1st through December 31st.

Section 6.9 ~~Section 6.9~~—Depositories. All funds of the FRCC shall be deposited in the name of the FRCC in such bank, banks or other financial institutions as the CEO shall from time to time designate and shall be drawn out on checks, drafts or other orders signed on behalf of the FRCC by such person or persons as the Board shall from time to time designate.

ARTICLE VII

Amendments

Section 7.1 Amendments. Subject to the provision that no amendment to these Bylaws may limit the rights of a Member to resign from Membership, subject to the provisions of Section 1.2, and subject to the requirements for approval by NERC and the Federal Energy Regulatory Commission applicable to the FRCC as a Regional Entity, these Bylaws may be amended, altered, or repealed through the following procedure:

(a) Any Voting Member—~~or~~, Director or Alternate Director may suggest amendments to these Bylaws. Such suggestions must include a proposed amendment, and any necessary supporting documents. They should be sent to the CEO of FRCC for placement on the agenda for a Board meeting in the time and manner prescribed by the Board.

(b) If the proposal is approved by the Board of Directors, the Board shall place the proposal on the agenda of either the next Annual Meeting of the Voting Members, or pursuant to Board discretion, at a Special Meeting of the Voting Members called for that purpose.

(c) Voting Members shall vote to enact the Board-approved amendment in accordance with Sections 2.5 and 2.6, and subject to the provisions of Section 1.2 of the Bylaws.

Section 7.2 Review of Governance. The Board shall appoint a task force to review these Bylaws, and to submit recommendations to the Board on necessary amendments, at the discretion of the Board or if any of the following events occurs. Such task force shall include representation from each Sector.

(a) The number of Voting Members in a Sector is not greater than one (1).

(b) A Regional Transmission Organization of any type is approved by the Federal Energy Regulatory Commission to operate in the FRCC Region.

(c) Any federal or state legislation or regulatory action that significantly alters the functions of the FRCC.

(d) Any new entity that has or is expected to have financial transactions in the wholesale electric market in the FRCC Region wishes to join the FRCC, and does not otherwise meet the membership requirements as then defined in these Bylaws.

ARTICLE VIII

Observers of the Board

Section 8.1 Observers of the Board. The Chairman of the Florida Public Service Commission, or designee, shall be invited to attend meetings of the Board. The Board shall invite other observers as the Board deems appropriate.

ARTICLE IX

Board Compliance Committee

Section 9.1 Board Compliance Committee. FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

The BCC will consist of one (1) representative of a Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) ~~members~~ Directors (including Alternate Directors) from each Sector ~~of the FRCC Board of Directors~~ will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no ~~alternates or proxies~~ for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

ARTICLE X

Audit

Section 10.1 Audit. The Board shall engage a certified public accounting firm to audit the books and accounts of the FRCC for each fiscal year.

ARTICLE XI

Dispute Resolution Procedures

Section 11.1 Dispute Resolution. These procedures are established for the equitable, efficient and expeditious resolution of disputes. Except as stated in the next sentence, these procedures shall be used to resolve disputes between Members, between a Member and a consenting non-member, or between FRCC and any Member or consenting non-member (any of the foregoing being referred to hereinafter as a “party”), arising from an act or omission by FRCC, or from an act or omission by a party in its capacity as a FRCC member. These procedures do not apply to disputes that are covered by the dispute resolution provisions of the FRCC Compliance Monitoring and Enforcement Program (Exhibit D to the Delegation Agreement between FRCC and NERC) or other NERC dispute resolution provisions, and do not supersede, unless agreed to by the parties, any dispute resolution agreement between the parties applicable to the dispute, including, without limitation, dispute resolution procedures set forth in Members' Open Access Transmission Tariffs. These procedures supersede the dispute resolution provisions in the FRCC Regional Transmission Planning Process. Multiple parties with the same or substantially similar interests may be joined in the same proceeding. The parties are strongly encouraged take part in the complete process described in this Article XII prior to initiation of judicial proceedings or the utilization of other external dispute resolution processes, but the use of any of the steps of the process in this Article XII shall not be a required condition for the initiation of judicial or regulatory proceedings or the utilization of other external dispute resolution processes. FRCC shall be involved in the administration of a proceeding as provided in sections 11.4, 11.5 and 11.6 to coordinate with the parties to facilitate the resolution of the dispute, and to provide personnel, coordination, and meeting and other facilities as specified herein.

Section 11.2 Initiation. Any Member or FRCC (the “Invoking Party”) may initiate these dispute resolution procedures by making a request in writing to the President with a

copy to all other parties to the dispute; provided, however, that if FRCC initiates the dispute, FRCC shall make a request in writing to the Chair, with a copy to the Vice Chair and all other parties. The copy of the dispute resolution request for each party shall be sent to and accepted by the Member representative appointed in accordance with Section 1.7 of these bylaws. The President will inform the Board of Directors of the initiation of any dispute resolution proceedings, and the docket number and title assigned to the dispute. The request must contain:

- (a) a statement of the issues in dispute;
- (b) the position of the party on each of the issues;
- (c) the relief sought by the party;
- (d) an explanation of the asserted right to such relief under an applicable tariff, contract or other legal standard or obligation;
- (e) the dispute resolution step under Section 11.4 at which the party proposes to begin; and
- (f) any proposed modifications or specific additions to the proceedings described in these Bylaws by which the dispute may be resolved.

Each person or entity identified as party to the dispute (a “Noticed Party”) shall submit a response to the request to the President, the Chair and Vice Chair, and each other party to the dispute (the “Dispute Response”). Each response shall set forth the position of the party on each of the points identified above. A party shall have 20 business days from its receipt of the request to submit its Dispute Response.

Section 11.3 Dispute Resolution Process. The dispute resolution process described herein shall be conducted and administered in accordance with these Bylaws and such other FRCC governing documents as may be relevant to the proceedings. These dispute resolution procedures outline a step-by-step process for the resolution of disputes. Parties are permitted to skip steps in the dispute resolution process described in Section 11.4 by mutual agreement, or as specified in the procedures for each step.

Section 11.4 Resolution Steps. The four steps in the dispute resolution process are:

- (a) Step 1—Settlement Proceeding: (i) Step 1 is a proceeding in which the parties shall meet in a good faith effort to resolve the dispute by mutual agreement (“Settlement Proceeding”). FRCC shall provide administrative support, such as making available meeting space, as requested by the parties. The parties shall be represented at settlement discussions by a person with full authority to resolve the dispute. A final resolution may be subject to corporate or regulatory or other government approvals, the requirements for which shall be disclosed by any party subject to an approval prior to agreement on a final resolution.

(ii) In the event that the parties cannot resolve their dispute in ninety (90) days from the submission of the dispute resolution request, or such later date as may be agreed to by the parties, the dispute shall proceed to the next step in the dispute resolution process. At any time after thirty (30) days from the submission of the dispute resolution request the parties may mutually agree to end the process. Any statement relating to the dispute by any party during the course of or relating to the Settlement Proceeding may not be cited or offered into evidence for any purpose in any external proceeding by any party.

(b) Step 2—Mediation Proceeding: (i) Step 2 is a proceeding to assist the parties through active participation by a mediator in joint discussions and negotiations through which the parties attempt to resolve the dispute by mutual agreement (“Mediation Proceeding”). The Mediation Proceeding shall be conducted by an independent mediator selected and mutually agreed upon by the parties (“Mediator”). A Mediator shall have no affiliation with, financial or other interest in, or prior employment with any party or any of their parents, subsidiaries or affiliates, and shall have knowledge and experience relevant to the subject matter of the dispute. In the event that the parties cannot agree on a Mediator within 10 days following the termination of the Settlement Proceeding, the President of FRCC shall select a Mediator; provided, however, that if FRCC is a party the Mediator shall be selected by the Chair, unless the Chair is an officer or employee of a party, in which case the selection shall be made by the Vice Chair. At the request of the Mediator, the parties shall be represented at a mediation session by a person with full authority to resolve the dispute. A final resolution may be subject to corporate or regulatory or other government approvals, the requirements for which shall be disclosed by any party subject to an approval prior to agreement on a final resolution.

(ii) The Mediator shall not issue specific recommendations on resolution of the dispute or otherwise opine on the merits of the dispute except at the request of the parties. A party may request the Mediator to offer his or her views on the merits or any other aspect of the dispute to that party individually on a confidential basis. Any recommendation, opinion or other statement expressed by the Mediator or any party relating to the dispute during the course of or relating to the Mediation Proceeding shall be offered solely for purposes of resolution of the Mediation Proceeding, and may not be cited or offered into evidence for any purpose in any external proceeding by any party.

(iii) In the event that the parties cannot resolve their dispute in ninety (90) days from the selection of the Mediator, or such later date as may be agreed to by the parties with the concurrence of the Mediator, the dispute shall then proceed to the next step in the dispute resolution process. At any time after sixty (60) days from selection of the Mediator, the parties may mutually agree to end the process, or a party may request the Mediator to determine and declare that the Mediation Proceeding is at an impasse. If the Mediator determines that the Mediation Proceeding is not likely to result in a resolution of the dispute, the Mediator shall declare the Mediation Proceeding at an impasse, and if so the dispute shall proceed to the next step in the dispute resolution process.

(c) Step 3—Arbitration Proceeding: (i) Step 3 is a non-binding arbitration in which an arbitrator or an arbitration panel shall receive evidence from each disputing

party on factual matters, and hear arguments, relating to the issues in dispute, make written findings and conclusions of fact and law, and issue specific recommendations, based on those findings and conclusions, for resolution of each issue in dispute (“Arbitration Proceeding”). Initiation of an Arbitration Proceeding shall require the mutual agreement of the parties. The Arbitration Proceeding shall be conducted before a single arbitrator selected by the parties. Alternatively, the parties may agree to have the Arbitration Proceeding conducted by a panel of three arbitrators, with one designated by the Invoking Party or Parties, one designated by the Noticed Party or Parties, and a third selected by the two arbitrators designated by the parties. The parties may by mutual agreement engage a firm specializing in alternative dispute resolution to administer the Arbitration Proceeding, or may invoke the assistance of the Federal Energy Regulatory Commission’s Dispute Resolution Service. Arbitrators shall have no affiliation with, financial or other interest in, or prior employment with any party or any of their parents, subsidiaries or affiliates, and shall have knowledge and experience relevant to the subject matter of the dispute. The parties shall have 10 business days after conclusion of or agreement to skip the Mediation Proceeding to select a single arbitrator, or to agree on the use of an arbitration panel and to make their respective arbitrator designations and to so notify the opposing party or parties, with the arbitrators so designated selecting the third arbitrator not later than five days after the last such designation. If the parties cannot agree on the selection of a single arbitrator, unless the parties agree otherwise the President of FRCC shall provide the parties with a list of not less than five candidates meeting the qualifications set forth above. The list shall summarize the qualifications of the candidates, by experience and education, to resolve the matters at issue. The parties shall convene a meeting or telephone conference call during which the parties shall alternate striking names from the list until a single name remains, the party with the first strike to be chosen by lot. If any person so selected is or becomes unwilling or unable to serve, the last person struck from the list shall be requested to serve. Subsequent procedures shall be determined by the arbitrator or arbitration panel, upon consideration of the recommendations of the parties, who shall seek to agree on a location for the arbitration and other procedures.

(ii) The arbitrator or arbitration panel shall issue findings of fact and law and recommendations for resolution of the dispute within ninety (90) days of appointment, unless a longer period shall be agreed to by the parties with the concurrence of the arbitrator or arbitration panel.

(d) Step 4—Board Proceeding: (i) Step 4 is a proceeding conducted by the FRCC Board (Board Proceeding) to hear formal evidence on factual matters related to the issues submitted, make written findings of fact and conclusions of law, and issue a recommended award or other resolution for each issue in dispute; provided, however, that if the parties have completed an Arbitration Proceeding as specified in Step 3, the Board shall accept the arbitrator’s findings of fact except to the extent that a party demonstrates to the satisfaction of the Board that one or more findings of fact are erroneous. A party shall have 30 days from the completion of the Arbitration Proceeding to make a submission to the Board, with copies to all parties, contending that any of the findings of fact by the Arbitrator are erroneous, and any other party shall have 15 days from its receipt of the

submission to respond to any such submission. Other procedures and schedules for the Board Proceeding shall be established by the FRCC Board.

(ii) The Board shall vote on the appropriate resolution of the dispute in accordance with the voting procedures described in these Bylaws. The Board shall publish the results of the vote and issue recommendations for resolution of the issues in dispute within ninety (90) days of initiation of the Board Proceeding, or such longer period as may be agreed to by the parties, with the concurrence of the Board.

(e) Further Proceedings. After 30 days from completion of the dispute resolution steps described above, to the extent that the parties have not agreed to resolution of any issue in dispute a party may seek resolution of the dispute through one of the following proceedings:

(i) By agreement of the parties, binding arbitration.

(ii) A regulatory proceeding before a state or federal regulatory agency having jurisdiction of all parties and the subject matter of the dispute.

(iii) A judicial proceeding before a court of competent jurisdiction.

Section 11.5 Administration. The following administrative procedures apply to the dispute resolution procedures described in Section Section 11.4(a)-(d):

At each step in the process, unless the parties otherwise agree the neutral person or persons conducting the dispute resolution process shall determine meeting arrangements and formats necessary to efficiently expedite the resolution of the dispute, and shall notify the parties of these details. The parties shall seek to agree on such matters, but if after endeavoring in good faith they are unable to agree, or if they request it, the neutral authority for the proceeding shall make decisions regarding such details. The President shall assign a member of the FRCC staff to assist those responsible for conducting the dispute resolution with the administration of the process. If the parties resolve their dispute in a proceeding prior to the Board Proceeding, the person or persons responsible for conducting the dispute resolution process shall notify the President and the Chair of its outcome. After consultation with the parties and the individuals responsible for conducting the dispute resolution process to confirm the completion of the process described in that step, the President, with the concurrence of the Chair if the FRCC initiated the dispute, shall discharge the persons responsible for conducting the dispute resolution process, and notify the Board of the results.

Section 11.6 Expenses. The parties to the dispute shall share equally all costs for meeting locations, administrative costs, and travel and related expenses of FRCC staff members, Mediators or arbitrators administering or conducting the dispute resolution process. The parties to the dispute shall also share equally all charges for time and expenses of a Mediator, an arbitrator or an arbitration panel. The FRCC Controller shall, with the assistance of the FRCC staff members assigned to assist in the administration of the proceedings, account for these expenses. Each party to the dispute shall be responsible

for its own costs and fees, including attorney fees, associated with participation in any of the proceedings described herein.

ARTICLE XII~~ARTICLE XI~~

Miscellaneous Provisions

Section 12.1 ~~Section 11.1~~ Headings. The headings used in these Bylaws are for convenience and may not be considered in construing these Bylaws.

Section 12.2 ~~Section 11.2~~ Number and Gender. All singular words include the plural, and all plural words include the singular. All pronouns of one gender include reference to the other gender.

Section 12.3 ~~Section 11.3~~ Parties Bound. These Bylaws will bind and inure to the benefit of any Members, Director, Member representative, agent, officer, or employee of the FRCC and their respective administrators, legal representatives, successors, and assigns except as these Bylaws otherwise provide.

Section 12.4 ~~Section 11.4~~ Minority Positions. Any Voting Member or Standing Committee Representative who has a minority opinion on any significant issue may present the minority opinion to the Board in a manner as prescribed by the Board.

Amended: February 6, 2009

APPENDIX A

Voting Member Agreement - Division

_____, hereby agrees to comply with and be bound by, and to

(Voting Member)
promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Voting Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Affiliate Member Agreement – Division

_____, hereby agrees to comply with and be bound by, and to

(Affiliate Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Affiliate Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

APPENDIX A

Adjunct Member Agreement – Division

_____, hereby agrees to comply with and be bound by, and
to

(Adjunct Member)

promote and support, the Florida Reliability Coordinating Council Articles of Incorporation and Bylaws, and all acts, decisions or obligations of the Florida Reliability Coordinating Council applicable to Adjunct Member taken or entered into in accordance with the foregoing documents.

(Name)

DATE: _____

WITNESS:

HISTORY OF REVISIONS

January, 1998

Amended December 19, 2001

Amended March 2, 2006

Amended September 25, 2007

Amended June 27, 2008

Amended February 6, 2009

Amended February 10, 2010

Amended May 5, 2010

Amended July 26, 2011

Amended October 25, 2011

ATTACHMENT 3

EXHIBIT D TO NERC-FRCC DELEGATION AGREEMENT (FRCC CMEP) –

REDLINED TO SHOW PROPOSED AMENDMENTS

EXHIBIT D – COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

FRCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **FRCC's** geographic or electrical boundaries, and such other scope, set forth on **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

FRCC shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC's Board of Directors.

The BCC will consist of one (1) representative of a Voting Member from each of the six (6) sectors in the FRCC, who shall be a member of the Board of Directors. Each year, two (2) ~~members-Directors (including Alternate Directors)~~ from each Sector, ~~of the FRCC Board of Directors~~ will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. Once appointed to a hearing, a Director or Alternate Director shall serve throughout the hearing's duration. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of the FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

FRCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

The FRCC has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standard requirements that are applicable to the functions for which FRCC is a Registered Entity.

ERO Event Analysis Process Document

Action

Approve the ERO Event Analysis (EA) Process Document.

Background

Earl Shockley, director of reliability risk management, will provide status on the EA Process Document and the EA field trial and request Board of Trustees approval.

Purpose/Objective

To develop a cohesive and coordinated EA process across North America in coordination with industry stakeholders. As a defined part of this process, the EA Working Group (EAWG) will deliver a mechanism to ensure quality, timely, and actionable lessons learned are disseminated to registered entities.

Deliverables

The work plan is expected to include:

1. A consistent set of processes and procedures for use by the industry to report, categorize, analyze, identify conclusion and recommendations, and disseminate lessons learned from bulk electric system (BES) events.
2. A revised version of the "Event Analysis Classifications and Typical Event Analysis Levels".*

**Excerpted from the EAWG Scope approved in June 2010*

Summary

Timeline of activities:

- EAWG Scope approved by Operating Committee (OC) and Planning Committee (PC) (June 2010)
- Discussion and agreement on philosophy (July/Aug 2010)
- Develop first draft of Process Document (Sep 2010)
- NERC letter to industry to introduce Phase 1 of Field Trial (Oct 2010)
- Conducted industry webinar to introduce Phase 1 of Field Trial
- Began 3-month Field Trial (Phase 1) (Oct 25, 2010)
- Phase 1 of Field Trial completed (Jan 2011)
- NERC letter to industry to introduce review of EA process feedback and scheduled start of Phase 2 of Field Trial (Jan 2011)
- Revised EA Process Document based on feedback (Feb/March 2011)
- Held webinar to introduce Phase 2 of Field Trial and revised EA process (April 2011)
- Continued Field Trial (Phase 2) (May 2011)

- Revised EA Process Document based on feedback (Aug/Oct 2011)
- EA Process Document reviewed and approved by NERC executives and legal staff (Oct 2011)
- EA Process Document endorsed by Planning Committee (Dec 2011)
- EA Process Document endorsed by Operating Committee (Jan 2012)
- EA Process Document up for NERC Board of Trustees approval (Feb 2012)
- Phase 2 of Field Trial completed – EA Process Document is finalized (Feb 2012, if approved by Board of Trustees)

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Electric Reliability Organization Event Analysis Process

December 2011

RELIABILITY | ACCOUNTABILITY



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Introduction

In June 2010 the NERC Operating Committee and NERC Planning Committee approved the creation and the scope of the Event Analysis Working Group (EAWG). The Committees recognized the need to create a process to ensure the timely dissemination of event analyses and actionable lessons learned from significant bulk power system (BPS) events. Furthermore technical reliability guidance is needed to promote greater reliability by recognizing and reacting to identified risks and vulnerabilities that could recur elsewhere within the BPS.

The EAWG was tasked with developing a cohesive and coordinated event analysis (EA) process in coordination with industry stakeholders for use across North America. As a defined part of this process, the EAWG will deliver a mechanism that ensures quality, timely, and actionable lessons learned are disseminated to registered entities.

As per its scope, the EAWG was expected to provide the following deliverables:

1. A consistent set of processes and procedures for use by the industry to report, categorize, analyze, identify conclusion and recommendations and disseminate lessons learned from BPS events.
2. A revised version of the “Event Analysis Classifications and Typical Event Analysis Levels”.
3. A clearly defined process to separate compliance issues from EA.
4. An annual summary report that presents events analyzed and lessons learned.
5. Milestones and an associated timeline.

Within the body of this document the first three deliverables are addressed. The remaining two are handled outside of the process document.

This document is intended to be used as a guideline to promote a structured and consistent approach to performing event analyses in North America. This document presents a six step process for addressing event analysis and provides a robust lessons learned process and facilitates communication and information exchange among registered entities, NERC and its Regional Entities.

The NERC Operating and Planning Committees will maintain the document under the existing Electric Reliability Organization (ERO) documentation process. The document will be reviewed once each calendar year.

Sixty days before the annual revision is to begin, the NERC Operating and Planning Committees will solicit feedback, comments and opportunities for improvement to consider.

Goals of the Event Analysis Process

Promoting Reliability

The principal goal of the Electric Reliability Organization (ERO) is to promote the reliability of the bulk power system (BPS)¹ in North America. This goal is directly supported by evaluating BPS events, undertaking appropriate levels of analysis to determine the causes of the events, promptly assuring tracking of corrective actions to prevent recurrence, and providing lessons learned to the industry. The event analysis process also provides valuable input for training and education, reliability trend analysis efforts and reliability standards development, all of which support continued reliability improvement.

Developing a Culture of Reliability Excellence

Through the event analysis process, the ERO strives to develop a culture of reliability excellence that promotes aggressive critical self review and analysis of operations, planning, and critical infrastructure protection (CIP) processes. This self-critical focus must be ongoing, and the industry must recognize that registered entities are linked together by their individual and collective performances. This focus is the root of understanding the underlying cause of events and avoiding similar or repeated events through the timely identification and correction of event causes and through the sharing of lessons learned.

Collaboration

Successful event analysis depends on a collaborative approach in which registered entities, Regional Entities and NERC work together to achieve a common goal. The process requires clarity, certainty and consistent adherence to reliability principles by BPS owners, operators and users who perform a wide array of reliability functions.

Being a Learning Organization

As a learning organization, event analysis serves an integral function of providing insight and guidance by identifying and disseminating valuable information to owners, operators and users of the BPS who enable improved and more reliable operation. As such, event analysis is one of the pillars of a strong ERO.

¹ The term BPS is used throughout this document on the recommendation of NERC General Counsel. The term BES (Bulk Electric System) is considered to be a subset of BPS.

Philosophy and Key Ingredients of the ERO Event Analysis Process

The ERO enterprise-wide event analysis process is based on the recognition that BPS system events that occur, or have the potential to occur, have varying levels of significance. The manner in which registered entities, Regional Entities and NERC evaluate, respond and process these events is intended to reflect either the significance of the event or specific system conditions germane to the reliability of the BPS and the circumstances involved, or both.

When a BPS event occurs, the entities involved must first recognize it, then respond to it, and ultimately stabilize the system. Once the system has been stabilized, event analysis can begin.

Event analysis is the aggressive critical self analysis of BPS events that have occurred or have the potential to cascade. This analysis produces findings, lessons learned and best practices that provide experience-based insight to prevent repeat occurrences, provide informational material for entity training and industry learning, and institutionalize knowledge.

Event analysis begins with the registered entities that experienced the event or circumstances surrounding a potential event and depends upon collaboration between these entities, the Regional Entities, and NERC. The delineation between event categories is based on event significance and potential impact to the BPS. The significance and potential impact will drive the level of analysis for a particular event.

Critical components of an effective event analysis effort include the following:

- Prioritization of events affecting reliability of the BPS – detailed analysis for significant events and concise reviews for minor events
- Establishment of a clear timeline illustrating the sequence of events
- Specific identification of the causal factors of the event
- Identification and timely implementation of corrective actions
- Development and dissemination of alerts, quality lessons learned and best practices to the industry
- Emphasis on an aggressive critical self analysis by registered entities
- Emphasis on being a learning organization, including proactive improvement of BPS reliability
- Process transparency and predictability
- Proper confidentiality of data and information
- Identification of emerging trends discovered through event analysis

- Clarity and certainty about event analysis roles, responsibilities, and expectations for respective entities, including target timeframes for completing certain actions
- Appropriate regional entity and NERC review and oversight of registered entity event analysis results

Purpose of the Event Analysis Process Document

The purpose of the event analysis process document is to provide a clear and concise description of the analysis process structure. This structure includes event identification, reporting (as per applicable Standards), categorization, and analysis processes. Once the causal factors of these events are identified and corrective actions are implemented, any significant lessons learned will also be shared with the industry so that actions may be taken to minimize the possibility of similar events occurring.

This document is not intended to be an all-inclusive checklist or procedure applicable to all possible events. It does, however, describe a defined and repeatable process for identifying BPS events that warrant a further level of analysis. The document also establishes clear roles, responsibilities and expectations for registered entities, Regional Entities and NERC in regard to the event analysis process.

The event analysis process document also aims to promote consistency, comparability, flexibility, and timeliness among the various existing event analysis processes. The process detailed within provides registered entities guidance in determining which events need to be reported, as well as guidance regarding the extent of further analysis of specific events.

The appendices and references of this document contain valuable tools and templates to help identify, categorize, analyze and report on events.

ERO Event Analysis Process

Introduction

The ERO Event Analysis Process provides a method by which entities document information concerning:

- What happened during an event and why
- How the event happened, including causal factors
- What corrective actions were taken
- Whether there were any recommendations for preventing reoccurrence
- Whether there were lessons learned to be shared with the industry

The output or deliverables from the process are:

- Brief Report (**Appendix A: Brief Report Template**)
- Event Analysis Report (**Appendix B: Event Analysis Report Template**)
- Lessons Learned (**Appendix D: Lessons Learned Template**)

Registered entities are required to report the occurrence of defined BPS disturbances and unusual occurrences to the applicable Regional Entity and NERC in accordance with various NERC and Regional reliability standards. **It should be noted that following the event analysis process does not relieve the registered entity from mandatory reporting requirements dictated by regulatory authorities or NERC standards.**

Basic Event Analysis Process Steps

1. The registered entity makes an initial assessment of an event, which includes determining the initial event category.
2. If the event is a “qualifying event” (*i.e.* Category 1-5), a planning meeting is held with all involved parties.
3. A brief report is submitted.
4. If the qualifying event is a Category 3 or higher, an event analysis report (EAR) is to be submitted. (An EAR may be requested for a Category 2 event.)
5. Lessons learned and best practices (if any) are developed and shared with industry.
6. The event is closed.

Categorizing Events (Step 1)

When a registered entity experiences an event, it will recommend to the Regional Entity a category for the event as outlined in **Appendix E: Categorization of Events**. By referencing the five event categories, entities can quickly and unambiguously identify the appropriate level of analysis based on the impact of an event.

CIP, EMS and Other Events - The categories listed in **Appendix E: Categorization of Events** do not cover all possible events including those related to CIP, EMS loss of functionality, or loss of BPS “visibility” that could occur. When these types of events occur, the need for analysis may be discussed by all affected registered entities, the appropriate Regional Entities and NERC.

Weather-Related Occurrences - If a weather-related occurrence falls within any of the categories it should be reported. The affected entities should focus on restoration efforts. After restoration is complete, the affected entities, in coordination with Regional Entities, will determine if any additional information or event analysis steps are needed.

Event Analysis Planning Meeting/Coordination (Step 2)

For lower tiered events, registered entities are expected to perform the event analysis. Coordination of the analysis becomes more complicated for events that involve a broader geographic area, involve multiple registered entities, or include a complex set of facts and circumstances.

A planning meeting should be held by the registered entity and the applicable Regional Entity as soon as possible following the occurrence of a qualifying event (i.e. Categories 1-5). During the meeting, agreement should be reached on the event category, the level of analysis, a timeline for completion of the report, and the need for a data retention hold and draft or preliminary reports. **Appendix F: Planning Meeting Scope Template** can be used as an outline in the planning meeting. The event analysis should have a level of detail and target timeframe commensurate with the nature and scope of the event. Although the category of the event provides general guidance on the level of analysis needed, these guidelines may be adjusted by the EA team based on the overall significance of the event and the potential for valuable lessons learned.

Registered entities that reside in two Regional Entity footprints should notify both Regional Entities of an event that spans both Regions. Following the notification, the two Regional Entities and NERC will determine which one will coordinate the remaining steps of the event analysis process. When multiple registered entities are involved in or affected by an event, they should collaborate with the Regional Entity to determine if it is appropriate for each entity to prepare a report or for the entities to work together to prepare a single report.

A summary of roles, responsibilities, and expectations for event reporting and analysis is available in **Appendix H: Summary of Roles, Responsibilities, and Expectations for Event Reporting and Analysis**.

Event Analysis Process Reports (Steps 3 and 4)

There are two types of reports used in the event analysis process. Timeframes for submitting the requisite reports are found in **Appendix C: Target Timeframes for Completion of Brief Reports, Event Analysis Reports and Lessons Learned**.

The brief report is prepared by impacted registered entities for all qualifying events. It is sent to the applicable Regional Entity for review. The Regional Entity then forwards it to NERC. A brief report includes items identified in **Appendix A: Brief Report Template**. The brief report template may also be used for non-qualifying events, which may provide useful lessons learned for the industry.

An EAR is required for more significant events (Category 3 and above) and may be requested for lower-level events. An EAR is prepared by the impacted entity, a group of impacted entities, or an event analysis team as defined in the event analysis process. It addresses in detail the sequence of events as they happened, the identified causal factors and the appropriate corrective actions. The EAR is sent to the applicable Regional Entities for review and is then sent to NERC. **Appendix B: Event Analysis Report Template** can be used as a guideline for its layout.

In the brief report or EAR, registered entities are encouraged to include one-line diagrams or other diagrams or representations of the facility(ies) involved in the event, if applicable and helpful in enhancing the understanding of what happened in the event.

The final EAR should address corrective actions and recommendations related to the event's causal factors and any identified lessons learned. Positive outcomes identified during an event should be documented as a best practice. These are key parts of a continuous learning and improvement program.

NERC encourages registered entities that complete an EAR for events Category 3 and above to draft them in a manner so they can be shared with other stakeholders via a secure event analysis portal on the NERC web site. The sharing of detailed event analysis reports will be a valuable learning tool for stakeholders. Access to the secure portal requires a signed NERC non-disclosure agreement and approval by the Director of Reliability Risk Management.

Special Considerations for Category 4 and 5 Events

Following the occurrence of a Category 4 or Category 5 event, a planning meeting involving the affected registered entities, applicable Regional Entities, NERC, and other applicable governmental authorities (AGA) is held to discuss the event and to determine how the event analysis should proceed. **Appendix G: Contributory Factor Assessment** may be used for Category 4 and 5 events. The analysis of Category 4 or 5 events will be conducted by an event analysis team led by the applicable Regional Entities or NERC. As a note, if any AGA initiates a formal review process in conjunction with NERC, the decision on the composition of the event analysis team, the team lead, the information needed from affected registered entities, and the required scope of the analysis will be discussed and agreed upon by the AGA and NERC executive staff.

As specified in the ERO Rules of Procedure, Section 807.f, the NERC president and CEO has the authority to determine whether any event warrants analysis at the NERC level. A regional entity may request that NERC elevate an analysis of a major event to the NERC level.

As with the other categories, the target timeframe for completion of EARs for Category 4 and 5 events will vary with the nature and extent of the event. Timelines for preliminary or draft reports will be established by the event analysis team, the applicable Regional Entities and NERC. The use of interim reports should be considered for longer, more detailed event analyses for major events.

Lessons Learned from Events (Step 5)

Lessons learned as a result of an event analysis should be shared with the industry as soon as practical. Proposed lessons learned should be drafted by a registered entity utilizing **Appendix D: Lessons Learned Template** and should be submitted to the applicable Regional Entity. The lessons learned should be detailed enough to be of value to others and should not contain data or information that is deemed confidential. When possible, one-line diagrams, other diagrams and representations should be included to enhance the information provided in the lessons learned. Vendor-specific information should not be included unless it is discussed and coordinated with the vendor. If dissemination of vendor-specific information is beneficial, it may be pursued outside the event analysis process.

Lessons learned will be reviewed by selected technical groups and NERC staff for completeness and appropriateness prior to posting.

The steps for processing lessons learned are as follows:

1. Registered entity and applicable Regional Entity will work together to prepare lessons learned using the template in **Appendix D: Lessons Learned Template**.
2. Registered entity and applicable Regional Entity will redact the lessons learned to remove all indication of the entity involved in the event and any other event details that are confidential.
3. Regional entity to submit lessons learned to NERC
4. NERC staff will review lessons learned.
5. NERC staff will prioritize lessons learned and identify common themes.
6. NERC staff will distribute priority draft lessons learned to selected technical groups for review and comment.
7. NERC and the Regional Entity will make revisions based on the technical group's input.
8. Regional Entity will send lessons learned to the applicable registered entity for review, if needed, based on any major changes made.
9. NERC will publish lessons learned on the NERC website and send an announcement to industry.

Lessons Learned from Other Occurrences (Step 5)

Any occurrence on the BPS may yield lessons of value to the industry. Lessons learned can include the adoption of unique operating procedures, the identification of generic equipment problems, or the need for enhanced personnel training. In such cases, an event analysis would not be required, but the ERO event analysis process encourages registered entities to share with their Regional Entity any potential lessons learned that could be useful to others in the industry and to work with the Regional Entity and NERC to develop the lessons for dissemination.

Event Closure (Step 6)

Following the receipt of Event Analysis Process reports, NERC and the Regional Entity will evaluate and close the event within the timeframes established in **Appendix C: Target Timeframes for Completion of Brief Reports, Event Analysis Reports and Lessons Learned** unless NERC or the Regional Entity requests additional information or analysis from the registered entity.

Retention of Event-Related Data

Registered entities should capture relevant data for the event analysis. Regional Entities will formally send a Data Retention Hold Notice for events in Category 3 or higher. **Appendix I: Data Retention Hold Notice** provides an example of a Data Retention Hold Notice. Copies of these notices will be made available to NERC.

Reliability Standards Assessment

Registered entities are to perform a critical self-assessment of Standards and to develop a compliance self-assessment report proportional to the significance of the event/risk to the BPS.

It may be helpful for registered entities to establish a liaison between their internal event analysis and compliance functions. This will provide a clearer understanding and a more efficient transfer of information from both an operational and a compliance standpoint, and it will facilitate a thorough Reliability Standards analysis by the registered entity.

For information regarding compliance related issues and the completion of a compliance assessment please refer to the ERO Compliance Monitoring and Enforcement Program (CMEP) and the current CMEP Implementation Plan.

Confidentiality Considerations

Certain data and information gathered during the course of an event analysis may need to be labeled CONFIDENTIAL and protected from disclosure beyond the event analysis team if the registered entity providing the data and information, the Regional Entity or NERC believe it to be Critical Energy Infrastructure Information (CEII) or commercially sensitive information. See Section 1500 of the NERC Rules of Procedure for further details on the definition and protection of “Confidential Information.”

Portions of draft and final EARs may also be subject to confidentiality restrictions as warranted. However, every effort should be made to make as much of these reports available to the industry as possible in order to promote the dissemination of lessons learned from events.

The rights and responsibilities of all entities participating in an event analysis or receiving a draft or final EAR will be specified in signed confidentiality agreements, if necessary, and in the foreword of draft and final reports.

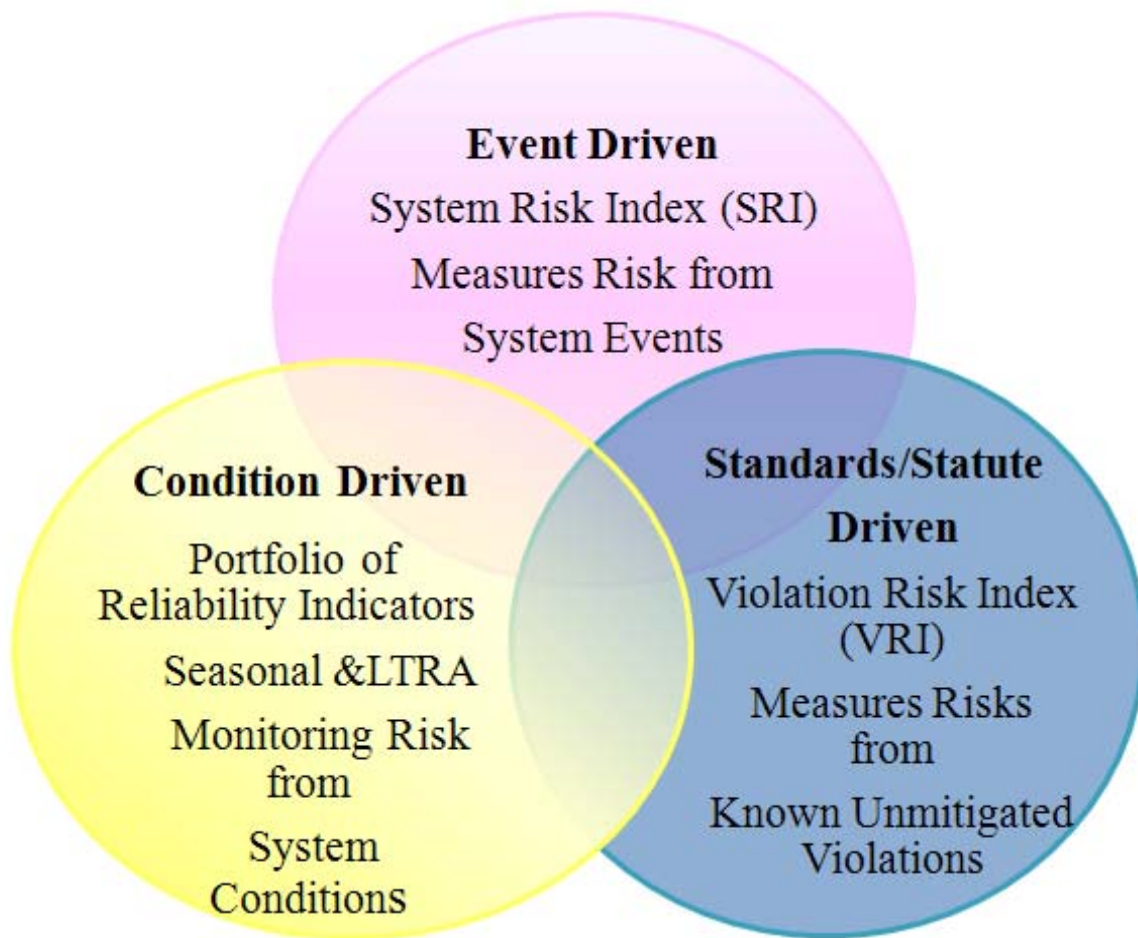
Special procedures may need to be implemented in the case of CIP issues related to an event.

Data and information provided to the Regional Entity and/or NERC for analysis of a cross-border event will be maintained separately for U.S. and Canadian entities and only shared with AGAs for the jurisdiction within which the entities operate, consistent with applicable memorandums of understanding (MOUs) or other agreements.

Event Analysis Trends

Over time, the ERO with industry participation will be able to collect, analyze and categorize events arising from this ERO Event Analysis Process. This will facilitate the proactive identification of emerging reliability trends across the industry. Further, this event information, including lessons learned, can be cross-referenced with other data collection efforts (such as TADS, GADS, metric and benchmarking databases, etc.). This could identify and help mitigate an underlying trend and further improve BPS performance.

The following is a visual perspective that represents the ERO's integration of risk concepts, assessments and tools.

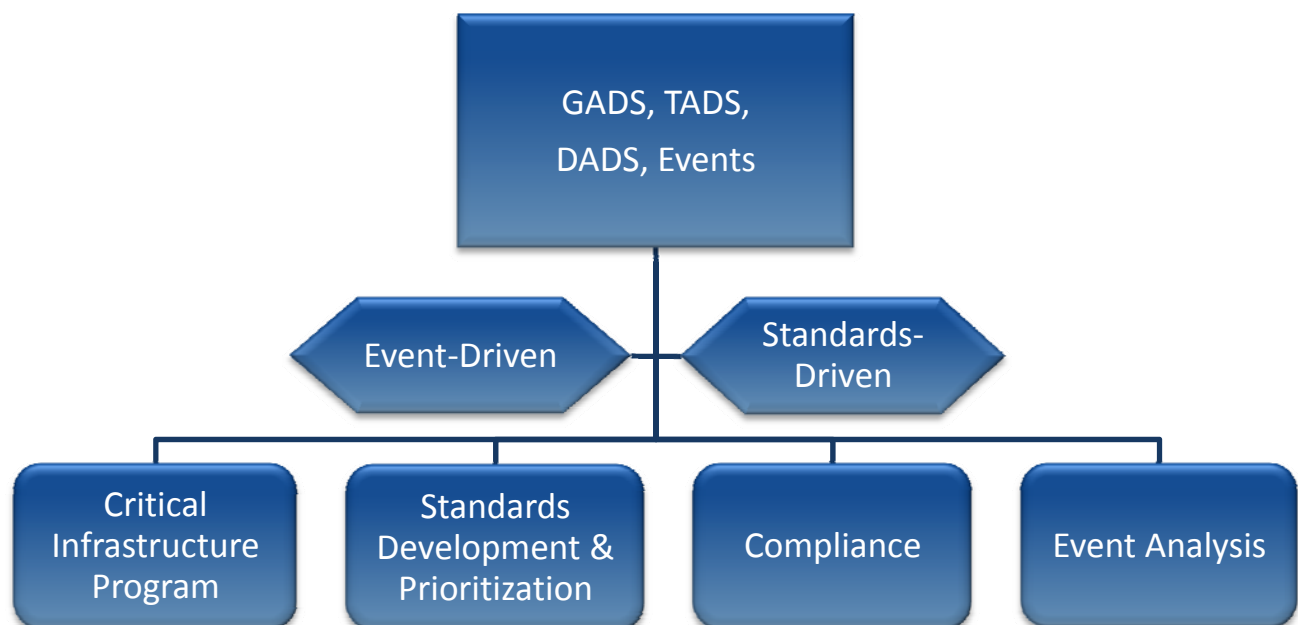


Future Vision

With this information and by working together, the registered entities, Regional Entities and NERC will be able to:

- Communicate the effectiveness of reliability improvement programs
- Estimate effectiveness of either risk reduction, mitigation strategies, or both
- Identify trends and lessons learned
- Support industry analysis of root causes
- Prioritize standards and other activities

The diagram below presents the various sources of information and how the work products must come together.



Appendices and Other Suggested References

Appendix A: Brief Report Template

Appendix B: Event Analysis Report Template

Appendix C: Target Timeframes for Completion of Brief Reports, EARs and Lessons Learned

Appendix D: Lessons Learned Template

Appendix E: Categorization of Events

Appendix F: Planning Meeting Scope Template

Appendix G: Contributory Factor Assessment

Appendix H: Summary of Roles, Responsibilities and Expectations for Event Reporting and Analysis

Appendix I: Data Retention Hold Notice

Other References:

- NERC Blackout and Disturbance Analysis Objectives, Analysis Approach, Schedule, and Status – Attachment D from Appendix 8 of NERC Rules of Procedure.
- Causal Analysis Methods for NERC, Regional Entities and registered entities

Appendix A: Brief Report Template

Registered entities are requested to use the brief report template as a guideline for submitting event information to their applicable Regional Entity and NERC in accordance with **Appendix C: Target Timeframes for Completion of Brief Reports, Event Analysis Reports and Lessons Learned**. The template may also be used for less significant events.

In some cases, a revised or updated brief report may need to be submitted as additional information is learned about an event or questions are raised by the Regional Entity or NERC. In those cases, the registered entity should indicate this in any subsequent event report.

Template instructions:

Reported Event: Provide a title that will be used to further identify the event. The title should include the date of the event (YYYYMMDD), entity name, substation name or location as appropriate.

Within five business days of the event:

Submit the brief report to the respective Regional Entity. The Regional Entity will collaborate with the registered entity submitting the Brief Report and will then provide the report to NERC within ten business days of the event.

The business day count starts on the next business day **after** the event.

Submittal Date: Should be updated with every Brief Report update.

Brief Description (3): Provide a concise description of the event.

Questions 6 -11: If the event did not involve generation, frequency, transmission facilities, and/or load question (6 – 11), may be left blank.

Generation Tripped Off-line (6): Provide a total MW loss and the names of the units that tripped off-line due to the event.

Restoration Time (11): Provide the times that affected transmission, generation, and/or were restored, or an estimate of pending restoration.

Sequence of Events (12): The sequence of events should provide a timeline of the events that took place leading up to and through the event.

Narrative (15): This section should expand on the brief description by providing additional detail as needed to more clearly describe the event and immediate corrective actions taken.

Brief Report Template

Reported Event: _____

Submittal Date: _____

Region: _____

1. Entity Name: _____

2. Contact Person: _____ 3. Date and time of disturbance

Contact Email: _____ Date: _____

Phone Number: _____ Time: _____

Time Zone: _____

4. Brief Description of Event:

Status (initial, interim, final): _____

5. Proposed Event Categorization (e.g. 1a, 2b, 3c): _____

6. Generation Tripped Off-line 7. Frequency

MW Total _____ Just prior to disturbance (Hz) _____

List Units Tripped _____ Immediately following disturbance
(Hz MAX) _____

Immediately following disturbance
(Hz MIN) _____

8. List Transmission facilities tripped and locked out

(Specify voltage level of each facility listed and extent of equipment damage, if any)

9. Demand Interrupted (MW) 10. Number of affected customers

Firm _____ Firm _____

Interruptible _____ Interruptible _____

11. Restoration Time from Time of Event

Transmission _____

Generation _____

Demand _____

12. Sequence of events _____

13. Identify contributing causes of the event to the extent known

14. Identify any protection system misoperations to the extent known

15. Narrative

16. If a one-line diagram is included please provide an explanation.

17. Identify the significance and duration of any monitoring and control event, such as loss of BPS visibility, loss of data links, etc.

Appendix B: Event Analysis Report Template

The EAR template is provided as a guideline for preparing an EAR. The level of detail will vary depending on the category and details of a specific event. The EAR template contains notices concerning Confidential/CEII Protected information. If a particular event involves CEII protected information, leave the notice on the report. Otherwise, remove it.

Event Analysis Report Template

1. Report Cover Sheet

- a. Report Title, Event ID Tracking Number
- b. Date of Report
- c. Preparer's Name

2. Table of Contents

3. Executive Summary

- a. Introduction
- b. Purpose
- c. Scope
- d. Background

4. Event Overview

Provide a description of the important facts leading up to the event, occurring during the event, and when the event is over and returned to normal operations. This includes all pre-event conditions.

5. Detailed Sequence of Events

Provide an accurate sequence of events. This timeline is a building block for all other aspects of the analysis, and is a starting point for the root cause analysis. It is the basis for developing computer models to simulate system conditions and evaluate steady state and stability conditions in the period leading to the event. The sequence of events is the foundation of facts upon which all other aspects of the analysis can proceed.

6. Cause Analysis

Cause analysis methodology and the tools used guides the overall analysis process by providing a systematic approach to evaluating root causes, causal factors and contributing factors leading to the event. Cause analysis enables the analysis process to develop a factual record leading to logical and defensible conclusions in the final EA report regarding the causes of the event.

7. Detailed System Analysis

- a. System conditions prior to event
- b. Generation outage summary

- c. Transmission outage summary
- d. Effects on customers/public
- e. Event Response
- f. Restoration observations

8. Findings, Conclusions, and Recommendations

- a. Reference to published Lessons Learned, if any

9. Appendices

- a. One Line Diagrams
- b. Graphic representations
- c. Team Members
- d. Other Relevant Data

Appendix C: Target Timeframes for Completion of Brief Reports, Event Analysis Reports and Lessons Learned²

Event Category	Brief Report	Event Analysis Report	Lessons Learned	Close Event Analysis
1	Draft within five business days, sent to applicable Regional Entity for review. Final report within 10 days.	Not required	Within 30 business days (if applicable)	10 business days following receipt of Brief Report
2	Draft within five business days, sent to applicable Regional Entity for review. Final report within 10 days.	(If requested) Within 30 business days of the event	Within 30 business days	30 business days following receipt of EAR
3	Draft within five business days, sent to applicable Regional Entity for review. Final report within 10 days.	Within 60 business days of the event	Within 60 business days	30 business days following receipt of EAR
4	Draft within five business days, sent to applicable Regional Entity for review. Final report within 10 days.	Within 180 business days of the event	Within 180 business days	60 business days following receipt of EAR
5	Draft within five business days, sent to applicable Regional Entity for review. Final report within 10 days.	Within 180 business days of the event	Within 180 business days	60 business days following receipt of EAR

² All timeframes are subject to extension to accommodate special circumstances with agreement of the applicable Regional Entity. If the timeline for the completion of the EAR exceeds 30 days from the date of the event, draft reports need to be provided to the Regional Entity every 30 days.

Appendix D: Lessons Learned Template

Instructions for completing a Lessons Learned report:

- **Title:** The “Title” should be short and specify the theme of the lesson learned so its reader can easily identify the subject.
- **Primary Interest Groups** – The “Primary Interest Groups” heading is to identify those NERC registered entities that could possibly benefit from the information contained in the lessons learned report. NERC registered entities are defined per the “NERC Reliability Functional Model Function Definitions and Responsible Entities” document, which can be found on the NERC website. (Example: Transmission Owner, Generator Owner, Load Serving Entity, etc.)
- **Problem Statement** – The “Problem Statement” heading is to provide a short descriptive narrative of the problem that occurred. Usually this can be defined in one sentence, but the purpose of the problem statement is to explain the problem so that the reader is able to easily determine if the problem is of interest without having to go further into the report.
- **Details** – The “Details” heading is to provide a concise narrative of what happened in the event, the end result of the event, the findings of the analysis of the event, corrective actions taken, and any other pertinent information that will provide the reader information that could be used to apply the lessons learned. One-line diagrams or other diagrams and representations that will help the reader understand the event should be included.
- **Corrective Actions** – Defines what was learned from the analysis of the event. The lessons learned should be a list of changes the entity incorporated to ensure that the event would not happen again. Some examples of items identified are changes in procedures and processes, maintenance changes, changes in training programs, equipment replacement, equipment testing changes, etc.
- **Lessons Learned** – Knowledge and experience – positive or negative – derived from actual incidents or events as well observations and historical studies of operations, training and exercises.

Lessons Learned Template

Lesson Learned Title

Primary Interest Groups

Problem Statement

Details

Corrective Actions

Lesson Learned

Appendix E: Categorization of Events

Operating reliability events are those events that are deemed to have significantly impacted the reliable operation of interconnected systems. The events are prioritized into one of five categories, based on the events' varying levels of significance and their impacts on the interconnected system. The event categories are intended to allow the registered entity and Regional Entity to quickly and unambiguously identify the event thresholds. **The highest category that characterizes an event shall be used.** An event may be assigned to a higher or lower category based on the significance of the event. The registered entity is expected to work with the applicable Regional Entity to determine initial categorization of events.

The categories listed in this appendix do not cover all possible events related to CIP, EMS loss of functionality, or loss of BPS "visibility." If such events occur, their analyses are discussed with the affected registered entity, appropriate Regional Entity and NERC to determine if the use of the event analysis process is warranted.

Category 1: An event that results in one or more of the following:

- a. An unexpected outage, contrary to design, of three or more BPS elements caused by a common disturbance. For example:
 - i. The loss of a combination of NERC-defined elements or facilities.
 - ii. The loss of an entire generation station of three or more generators (aggregate generation of 500 MW to 1,999 MW); combined cycle units are represented as one unit.
- b. Intended and controlled system separation by the proper operation of a Special Protection System Scheme (SPS) or Remedial Action Scheme (RAS) in Alberta from the Western Interconnection, New Brunswick or Florida from the Eastern Interconnection.
- c. Failure or misoperation of BPS SPS/RAS.
- d. System-wide voltage reduction of 3% or more that lasts more than 15 continuous minutes due to a BPS emergency.
- e. Unintended BPS system separation that results in an island of 100 MW to 999 MW. Excludes BPS radial connection, and non-BPS (distribution) level islanding.
- f. Unplanned evacuation from a control center facility with BPS SCADA functionality for 30 minutes or more.
- g. In ERCOT, the loss of generation of 1,000 MW - 1,399 MW.

Category 2: An event that results in one or more of the following:

- a. Complete loss of all BPS control center voice communication systems for 30 minutes or more.
- b. Complete loss of SCADA, control or monitoring functionality for 30 minutes or more.

- c. Voltage excursions equal to or greater than 10% lasting more than 15 continuous minutes due to a BPS emergency.
- d. Loss of off-site power (LOOP) to a nuclear generating station per the Nuclear Plant Interface Requirement.
- e. Unintended system separation that results in an island of 1,000 MW to 4,999 MW.
- f. Unintended loss of 300 MW or more of firm load for more than 15 minutes.
- g. Interconnection Reliability Operating Limit (IROL) Violation or SOL Violation (WECC only) for time greater than T_v .

Category 3: An event that results in one or more of the following:

- a. The loss of load or generation of 2,000 MW or more in the Eastern Interconnection or Western Interconnection or Québec Interconnection, or 1,400 MW or more in the ERCOT Interconnection.
- b. Unintended system separation that results in an island of 5,000 MW to 10,000 MW.
- c. Unintended system separation (without load loss) that results in an island of Florida from the Eastern Interconnection.

Category 4: An event that results in one or more of the following:

- a. The loss of load or generation from 5,001 MW to 9,999 MW
- b. Unintended system separation that results in an island of more than 10,000 MW (with the exception of Florida as described in Category 3c).

Category 5: An event that results in one or more of the following:

- a. The loss of load of 10,000 MW or more.
- b. The loss of generation of 10,000 MW or more.

Appendix F: Planning Meeting Scope Template

The planning meeting scope template provides guidance for conducting an event analysis planning meeting. The meeting participants (for example, NERC, the Regional Entities and the registered entities involved in the event) will determine the event category. If EA process timelines and expectations for that particular event category need to be changed, then there should be clear understanding of any divergence from the EA process by all participants. This is particularly important for large events that involve multiple entities, multiple regions, or both.

The Planning Meeting Scope Template can be applied to All Events. For more complicated events (Category 4 and 5) see **Appendix G: Contributory Factor Assessment**.

Planning Meeting Scope Template

Description	Discussion	Comments
Summary of Event or Incident	Describe what happened	Retrieve information from preliminary/initial reports, OE 417, EOP 004, RCIS, email, telephone calls, etc.
Attendees	List names and titles of participants	
Event Analysis Project Steps to Address	<ol style="list-style-type: none"> 1. Does the incident or event fit NERC's Event Categories? 2. Discuss Data Hold Retention Notice requirements. 3. What type of analytical work needs to be done? 4. Who should be on the team (identify points of contact)? 5. What is the schedule for completing work (e.g. studies, draft reports, final reports, etc.)? 6. Document the scope or create a record that summarizes who, what, and when. 7. Discuss scope of work with 	

Description	Discussion	Comments
	<p>NERC.</p> <p>8. Make adjustments to scope, deliverables and schedule (if appropriate).</p>	

Appendix G: Contributory Factor Assessment

The Contributory Factor Assessment template assists registered entities in making a determination of what to include in an EAR. For example, the team can determine if the “contributing factor” contributed to the event or hindered restoration efforts. The Regional Entities and NERC will collaborate on the request for information from the affected registered entities.

Contributory Factor Assessment Template

Contributing Factor	Explanation of Contributing Factor	Contributing Factor in Causing The Event, Increasing Its Severity, Or Hindering Restoration? (Yes or No)	Explanation
1. Power System Facilities	The existence of sufficient physical facilities to provide a reliable BPS.		
2. Relaying Systems	Detection of bulk power supply parameters that are outside normal operating limits and activation of protective devices to prevent or limit damage to the system. (UFLS/UVLS)		
3. System Monitoring, Operating Control And Communication Facilities	Ability of dispatch and control facilities to monitor and control operation of the bulk power supply system. Adequacy of communication facilities to provide information within and between entities.		
4. Operating Personnel Performance	Ability of system personnel to communicate appropriately and react properly to unanticipated circumstances that require prompt decisive action.		
5. Operational Planning	Study of near-term operating conditions. Application of results to system operation.		

Contributing Factor	Explanation of Contributing Factor	Contributing Factor in Causing The Event, Increasing Its Severity, Or Hindering Restoration? (Yes or No)	Explanation
6. System Reserve and Generation Response	Ability of generation or load reduction equipment to maintain or restore system frequency and tie-line flows to acceptable levels following a system disturbance.		
7. Preventive Maintenance	A program of routine inspections and tests to detect and correct potential equipment failures.		
8. Load Relief	The intentional disconnection of customer load in a planned and systematic manner or restoration of the balance between available power supply and demand.		
9. Restoration	Orderly and effective procedures to quickly re-establish customer service and restore the bulk power supply system to a reliable condition.		
10. Special Protection Systems (or Remedial Action Schemes)	An automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than and/or in addition to the isolation of faulted components to maintain system reliability.		
11. System Planning	Comprehensive planning work using appropriate planning criteria to provide a reliable bulk power supply system.		

Contributing Factor	Explanation of Contributing Factor	Contributing Factor in Causing The Event, Increasing Its Severity, Or Hindering Restoration? (Yes or No)	Explanation
12. Reliability Coordinator action	Directives, actions, or procedures of the Reliability Coordinator(s).		
13. Cyber Security	Ability of personnel to react properly to unanticipated circumstances that require prompt decisive action.		
14. Other	Any other factor not listed above which was significant in causing the disturbance, making the disturbance more severe or adversely affecting restoration.		

Appendix H: Summary of Roles, Responsibilities and Expectations for Event Reporting and Analysis

Appendix H provides a summary of roles, responsibilities, and expectations for event reporting and analysis.

Summary of Roles, Responsibilities, and Expectations for Event Reporting and Analysis

Category 1 Events			
Entity	Brief Report	Event Analysis Report (EAR)	Lessons Learned
Registered Entity	<p>Provide initial event report to Regional Entity and NERC in accordance with requirements specified in applicable NERC standards.</p> <p>Ensure content of report is consistent with Brief Report Template included in Appendix A.</p> <p>Provide Brief Report in five business days or less.</p>	Not required (unless requested by Regional Entity or NERC)	Provide draft of suggested lessons learned to Regional Entity within 30 business days of event occurrence.
Regional Entity (RE)	<p>Request additional event information from registered entity as determined by Regional Entity or in collaboration with NERC.</p> <p>Send Brief Report to NERC within 10 business days of the event.</p>	Not required (unless requested by Regional Entity or NERC)	<p>Review draft lessons learned from registered entity. Request additional information as deemed necessary.</p> <p>Work with registered entity and NERC to prepare final lesson learned for review by selected technical groups.</p>
NERC	Coordinate with Regional Entity to determine if additional	Not required (unless requested by Regional Entity or NERC)	Work with registered entity and Regional Entity to

	event information is needed.		prepare final lessons learned for review by selected technical groups. Disseminate final lesson learned to industry.
Category 2 and 3 Events			
Entity	Brief Report	Event Analysis Report (EAR)	Lessons Learned
Registered Entity	<p>Provide initial event report to Regional Entity and NERC in accordance with requirements specified in applicable NERC standards.</p> <p>Ensure content of report is consistent with Brief Report Template included in Appendix A.</p> <p>Provide Brief Report in five business days or less.</p>	<p>Hold data relevant to the event for 120 days unless notified by the Regional Entity.</p> <p>Provide EAR to Regional Entity within 30 business days for Category 2 event or 60 business days for Category 3 events. (For a Category 2 event – not required unless requested by Regional Entity or NERC)</p> <p>Registered Entity and Regional Entity should collaborate on the expectations for the report and any extensions to the due dates.</p>	<p>Provide draft of suggested lessons learned to Regional Entity within 30 business days of event occurrence.</p>
Regional Entity (RE)	<p>Send Data Hold Retention Notice for Category 3 event to registered entity.</p>	<p>Request EAR if not initiated by registered entity. Specify deadline. (For a Category 2 event – not required unless requested by Regional Entity or NERC)</p> <p>Follow progress of event analysis and report preparation with Entity.</p> <p>Review EAR for sufficiency and request additional analysis or information as</p>	<p>Review draft lessons learned from registered entity. Request additional information as deemed necessary.</p> <p>Work with registered entity and NERC to prepare final lesson learned for review by selected technical groups.</p>

		deemed necessary. Specify deadline and inform NERC. Notify registered entity that event analysis is closed unless NERC has additional questions.	
NERC	Coordinate with Regional Entity to determine if additional event information is needed.	Review final version of EAR, and provide comments to Regional Entity Before Regional Entity closes event analysis.	Work with registered entity and Regional Entity to prepare final lessons learned for review by selected technical groups. Disseminate final lesson learned to industry.
Category 4 and 5 Events			
Entity	Brief Report	Event Analysis Report (EAR)	Lessons Learned
Registered Entity	Provide initial event report to Regional Entity and NERC in accordance with requirements specified in applicable NERC standards. Ensure content of report is consistent with Brief Report Template included in Appendix A . Provide Brief Report in five business days or less.	Hold data relevant to the event for 180 days unless notified by the Regional Entity or NERC. Participate in event analysis as directed by Regional Entity and NERC.	Provide draft of suggested lessons learned to Regional Entity within 180 business days of event.
Regional Entity (RE)	Request additional event information from registered entity as determined by Regional Entity or requested by NERC. Send Data Hold	Planning Meeting of affected registered entities, Regional Entities involved, and NERC within five business days of occurrence of event to discuss approach for conduct of event analysis and agreement on	Review draft lessons learned from registered entity. Request additional information as deemed necessary.

	<p>Retention Notice to entity.</p> <p>Send Brief Report to NERC within 10 business days of the event.</p>	<p>composition and lead for event analysis team.</p> <p>Collaborate with NERC on request for information from affected registered entities.</p> <p>Coordinate event analysis for multi-entity events within Regional Entity. (Category 4)</p> <p>Participate in multi-regional event analysis led by NERC. (Category 5)</p> <p>Follow progress of event analysis and report preparation.</p> <p>Notify registered entity that event analysis is closed with agreement of NERC for Category 4 events.</p>	<p>Work with registered entity and NERC to prepare final lessons learned for review by selected technical groups.</p>
NERC	<p>Request Regional Entity to provide additional event report information from registered entity, as needed.</p>	<p>Planning Meeting of affected registered entities, Regional Entities involved, and NERC within five business days of occurrence of event to discuss approach for conduct of event analysis and agreement on composition and lead for event analysis team.</p> <p>Collaborate with Regional Entity(s) involved on request for information from affected registered entities.</p> <p>Participate in multi-entity events within Regional Entity, led by Regional Entity. (Category 4)</p>	<p>Work with registered entities and Regional Entity(s) to prepare final lessons learned for review by selected technical groups. Disseminate final lessons learned to industry.</p>

		<p>Lead multi-regional event analyses when determined by NERC president. (Category 4 or 5)</p> <p>Notify registered entity that event analysis is closed for Category 5 events, with agreement of the applicable Regional Entities</p>	
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Appendix I: Data Retention Hold Notice

As registered entities begin to analyze events, they must retain all data and information relative to the event. Regional Entities will formally send a Data Retention Hold Notice for events in Category 3 or higher.

Data holds will have an end date that corresponds with the closing of the event or a timeframe identified in the request from the Regional Entity for the data hold. The form used for notification is included in this appendix as a reference.

Appendix I – Data Retention Hold Notice

CONFIDENTIAL — NON-PUBLIC

DATA RETENTION HOLD NOTICE

Subject: []

Notice Date: [DATE]

Date of Event: [DATE]

The **[Name of Issuer]** is reviewing the circumstances surrounding the **[Description of Event]** (Event).

Therefore, this letter serves as ***official notice*** to **[Registered Entity Name]** to preserve and retain and not discard or destroy any and all data or documentation pertaining to the Event.

- Documentation includes, but is not limited to: operator logs, recorded voice communications, e-mail and written correspondence, work orders, inspection records, patrol records, and any other documents, fault recorder records, data or other information that may be directly or indirectly related to the Event, including “Electronic Data.” In addition, documentation includes, but is not limited to e-mails and other forms of communication, including Electronic Data, from entity personnel, including management, that may be directly or indirectly related or relevant to the Event.
- Documentation includes, but is not limited to: Energy Management System (EMS) data with regards to system load, frequency, online and offline generation energy/capacity, reserve capacity, forecasted load, capacity study results, interchange schedules, Market Analyst Interface, SCADA, and any other documents, data or other information that may be directly or indirectly related to the Event.

- “Electronic Data” shall include, but not be limited to: all planning power system models, operational planning system models, text files (including word processing documents), spreadsheets, e-mail files and information concerning e-mail (including logs of e-mail history and usage, header information and “deleted” files), internet history files and preferences, graphical image format (GIF) files, databases, calendar and scheduling information, computer system activity logs, and all file fragments and backup files containing Electronic Data.

[Registered Entity Name] is required, upon request, to produce any requested data pursuant to Title 18 of the Code of Federal Regulations (CFR)³ Part 39.

This Notice will be in effect for 120 calendar days from the date of issuance, unless extended by **[Issuer]**.

Please confirm by e-mail, within 24 hours of receipt, that you have received this message.

If you have any questions regarding this Notice and related requirements please contact me at any time using my contact information below.

Respectfully submitted,

[Insert Signature]

[Insert Name]

[Insert Title and Contact Information]

³ 18 CFR Part 39, Section 39.2 requires: (d) Each user, owner or operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) shall provide the Commission, the Electric Reliability Organization and the applicable Regional Entity such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity. The Electric Reliability Organization and each Regional Entity shall provide the Commission such information as is necessary to implement section 215 of the Federal Power Act.

Status of Action Items from NERC Three-Year ERO Performance Assessment

Action

None

Summary

Below are summaries of some of the more significant developments in each NERC program area since the March 16, 2011 report to the board, "Progress in Implementing Specific NERC Actions from the Three-Year ERO Performance Assessment." NERC plans to produce a final, year-end report for presentation to the board at its February 2012 meeting.

Reliability Standards

Prioritizing Standards — NERC is continuing to use the prioritization process for the 2012-2014 Reliability Standards Development Plan (RSDP). In 2011, the standards program revised its prioritization tool to allow for more discrete consideration of various criteria during the project prioritization effort. Projects in the 2012-2014 RSDP have been evaluated in terms of reliability, time sensitivity, and practicality. An initial review of cost considerations in relative terms has been examined as well, based on the subjective opinions of the members of the Standards Committee. Additionally, the projects have been included in a risk-based work plan, which takes into account industry resource availability (by limiting the number of projects active in any one subject matter area at the same time) and other logistical considerations. The proposed schedule of start dates for projects in 2012 through 2014 takes into account all of the foregoing considerations, and it was included in the RSDP approved at the November 2011 meeting of the Board of Trustees and filed with FERC on December 13, 2011.

Prioritizing Standards

Using new prioritization process and criteria (reliability risk, time sensitivity, and practicality) in 2012-2014 RSDP.

Engagement with Federal Energy Regulatory Commission (FERC or Commission) Staff on U.S. Filings — In addition to meeting with staff of FERC's Office of Electric Reliability for pre-filing meetings, NERC representatives are also meeting with the staffs of various Commissioners regarding high profile filings.

Engagement with FERC

Meeting with Commissioners' staffs on high profile filings.

FERC Directives — NERC processes directives pursuant to its Rules of Procedure. Specifically, when a regulatory order or rule is issued, that order or rule is reviewed and any directives therein related to standards development are added to the NERC Standards Issues database. NERC then seeks to associate each directive with a specific standard. Standards and their associated

FERC Directives

Using prioritization tool for work on directives.

"NERC Standards Report, Status and Timetable for Addressing Regulatory Directives," filed annually with FERC.

regulatory directives are then prioritized for revision using the RSDP, as described above. Since NERC was certified as the Electric Reliability Organization (ERO), FERC has issued 44 Orders containing approximately 655 directives related to NERC Reliability Standards. In 2011, NERC developed the “NERC Standards Report, Status and Timetable for Addressing Regulatory Directives,” which will be filed annually with the Commission on or before March 31 of each year in accordance with Section 321.6 of the NERC Rules of Procedure (Rule 321) that was approved by FERC on March 17, 2011.

Efficiency Improvements to Standards Process – In 2011, NERC and the Standards Committee worked to identify opportunities for improved efficiency in developing standards and interpretations. Two pilot projects were conducted: a pilot of a Rapid Development Process of a complete standard, and a second pilot, known as “Rapid Revision,” for a narrow modification to a standard when a need for clarification has been identified through a request for interpretation. The status of each of these pilots is explained below, and the Standards Committee intends to work in 2012 to identify other opportunities to improve the efficiency of the standards process.

- ***Rapid Development Process*** — NERC used a “rapid development” process to initiate the standards project addressing protection system misoperations. NERC designed the rapid development process with three goals: (1) to determine if a small, focused team with few subject matter experts, complemented by other diverse areas of expertise, could produce the initial draft of a standard in a shorter period of time than a larger team appointed to meet a broader set of objectives; (2) to determine if that draft standard would be as robust in supporting reliability when compared with a standard developed by a larger team consisting of a greater number of subject matter experts, representing greater industry diversity; and (3) to determine if use of a rapid development team to develop the initial draft of a standard would allow completion of the standard (from initial standard authorization request (SAR) and standard posting through recirculation ballot) within a year, while still fulfilling the obligations in ANSI’s essential requirements for accreditation.

In the case of the misoperations project, a small team of professionals was formed to develop a SAR and draft

Efficiency Improvements

Piloted the Rapid Development and Rapid Revision processes in 2011. Standards Committee will work on other efficiency improvements in 2012.

standard that would be presented to the Standards Committee and subsequently posted for public comment. This small team included a NERC attorney and a contract technical writer who helped draft the documents based on team discussions. The team developed the SAR and standard and submitted them for posting concurrently, after which a standard drafting team with greater regional and industry segment diversity was appointed by the Standards Committee to continue the work of the rapid development team. At the time of writing, this project is still underway but behind schedule. The Standards Committee is monitoring the success of this project and has already identified several “lessons learned.” If this process is used again, the project scope and goals will be more clearly defined before the project is initiated; the members of the rapid development team will continue to include legal, compliance, and technical writing support, but for technical expertise, more stakeholders and less NERC and regional staff will be used; and the transfer of responsibility from the small team to the full standard drafting team will need to be strongly coordinated to ensure continuity.

- ***Rapid Revision Process*** — The Interpretation of MOD-028 – Area Interchange Methodology, Requirement R3.1 used a “rapid revision” process to address a narrowly focused revision to the standard as an alternative to a formal interpretation. In this case, a stakeholder identified a case where a requirement seemed to indicate an obligation unintended by the drafting team, and accordingly asked for clarity through a request for interpretation. While the interpretation was being drafted, the Standards Committee identified an alternative approach through which NERC’s approved process could be used to quickly develop a proposed modification to Requirement R3 to address the concern. The Standards Committee asked the interpretation drafting team (a small team made up of five members of the original standard drafting team) to develop such a modification. The team submitted a SAR concurrent with the proposed changes to the standard, and posted both for a parallel comment and ballot period. Both the initial and the final ballot results indicated a very high approval (86 and 92 percent, respectively). The use of this process resulted in a revised standard that was modified using the normal standards development process, eliminating the need to follow-up with additional

standard activity, within 90 calendar days (from the initial posting of the SAR and proposed standard through the recirculation ballot). The Standards Committee intends to continue to use this process in those situations where there is a request for interpretation of a requirement and a simple modification to the standard would be more efficient than processing a formal request for interpretation. The Standards Committee may consider other uses for this approach in the future if warranted.

Regional Standard Development Efforts – Based on feedback from their membership, a couple of Regional Entities have decided to reevaluate the future of their Regional Standards Development program. Midwest Reliability Organization (MRO) has decided to no longer develop regional standards, and is in the process of withdrawing all of their currently developed regional standards, none of which have been submitted to the NERC Board of Trustees for adoption. Additionally, ReliabilityFirst Corporation (RFC) has decided to suspend its Regional Standards Development program and is in the process of determining whether to proceed with its program.

Organization Registration and Certification

Registration and Certification Training — NERC has conducted a number of training webinars and workshops on the registration and certification process for Regional Entities and the industry, which were open to applicable governmental authorities. These training webinars are posted on the NERC website. A separate presentation that was focused solely on registration options, including Joint Registration Organization, Coordinated Functional Registration, and use of other duly executed legal agreements, was developed and presented to the industry via a webinar on September 9, 2011, and will be used in future compliance workshops at both the NERC and Regional Entity levels. NERC has also provided guidance to the industry and the Regional Entities regarding various registration options as it relates to delegation of reliability tasks in NERC Compliance Public Bulletin #2010-004 *Guidance for Entities that Delegate Reliability Tasks to a Third Party Entity*. NERC has also provided a webinar to the Regional Entities and the industry regarding how to complete a sample matrix of functional tasks and responsibilities related to a given registration.

Threshold Criteria for Registration — The processes and procedures for the Multi-Regional Registered Entity (MRRE) pilot program have been completed and the pilot program

Regional Standards

MRO will no longer develop regional standards and RFC has suspended its process pending a review.

Registration and Certification Training

Conducted multiple training webinars for REs and the industry and provided additional guidance regarding registration options for delegated tasks.

Threshold Criteria for Registration

MRRE pilot program completed and new processes and procedures implemented.

implemented. While processing selected entities through the pilot program, some jurisdictional and enforcement issues were identified. NERC is continuing to work with industry on the MRRE concepts and mechanics with the applicable Regional Entities.

Compliance Monitoring and Enforcement

Compliance Guidance — NERC has been: 1) posting Compliance Application Notices (CANs) (including draft documents), Compliance Analysis Reports (CARs) and Case Notes on the NERC web site, 2) providing email notifications for activity on the web site for these communication vehicles, 3) conducting webinars and workshops for industry, and 4) discussing the use of these communication vehicles at quarterly meetings with industry trade organizations. In addition, in September 2011, NERC began posting public information on dismissals.

Compliance Guidance

Posted CANs, CARs and Case Notes on website, conducted webinars and workshops for industry, and holding quarterly meetings with trades.

Compliance Audit Procedures — NERC posted a revised compliance audit report procedure and report templates to address several areas for improvement, including the requirement to list the specific evidence the audit team used in determining compliance. The audit report template was reviewed in the fourth quarter of 2011 and will be slightly revised. The Compliance Monitoring Process Working Group (CMPWG) also plans to review and provide suggested improvements to the audit report template for the purpose of providing more useful examples and guidance to the registered entities.

Compliance Audit Procedures

Revised audit report procedure and report templates developed.

Compliance Enforcement Initiative — NERC and the Regional Entities are employing a more comprehensive and integrated risk control strategy that differentiates and addresses compliance issues according to their significance to the reliability of the bulk power system (BPS). In addition, NERC and the Regional Entities are increasing the utilization of their inherent enforcement discretion in the implementation of compliance and enforcement activities.

Compliance Enforcement Initiative

New approach differentiates and addresses compliance issues according to BPS reliability significance. Also promotes increased use of enforcement discretion.

This new initiative is not about whether possible violations should or will be addressed. In all cases and regardless of the filing format, such matters are expected to be found, fixed, tracked and reported to the Regional Entities, NERC, and the Commission. Lesser risk issues that have been corrected are being filed as Remediated Issues in a Find, Fix, Track, and Report (FFT) spreadsheet. More serious risk violations are submitted monthly as Spreadsheet Notices of Penalty (NOP) or Full NOPs, as warranted. These filings were initiated in September 2011. NERC

will be filing a six month report on the progress of the Compliance Enforcement Initiative on March 30, 2012.

Auditor Training — NERC conducted two ERO auditor workshops, which were held in February and September. Over the two workshops, training was provided to 98 percent of Regional Entity audit staffs responsible for auditing compliance with both Order No. 693 operations and planning standards and Order 706 CIP standards. NERC plans to continue this program going forward and has scheduled two ERO auditor workshops for 2012. In 2011 NERC started developing an ERO Auditor Certification Program which will include elements for initial auditor training, continuous auditor training, and focused auditor training. Additionally, training is conducted twice a year for investigative personnel in the Regions. Additional information and compliance guidance is available to ERO personnel on the NERC website,¹ including Reliability Standard Audit Worksheets (RSAWs),² CANs,³ CARs⁴ and Case Notes.⁵ Additionally, NERC will conduct its first ever auditor training workshop for registered entity representatives in 2012.

Auditor Training

Workshop training provided to 98% of Regional Entity audit staffs in 2011 and two more workshops planned for 2012, including first ever workshop for registered entity representatives.

Development begun on Auditor Certification Program.

NERC began development in 2011 on two significant compliance personnel training initiatives: Auditor Training and Auditor Reference Guide for Compliance Application. Auditor Training is planned to include various media including classroom education, on-line materials and web-based training, and will create a hierarchy of auditor expertise levels, allowing auditors of the highest expertise to exercise enforcement discretion.

NERC intends on expanding the required training for Certification Team Leaders and Certification Team members. In 2012, NERC will add one day to the presently planned Auditor Training workshop for the benefit of Certification Team Leaders, and one day to the Compliance Workshops specifically aimed at Certification Team members.

¹ The ERO Training website is located at: <http://www.nerc.com/page.php?cid=3|23|378>.

² The RSAWs are located on the NERC website at: <http://www.nerc.com/page.php?cid=3|22>.

³ CANs are located on the NERC website at: <http://www.nerc.com/page.php?cid=3|22|354>.

⁴ CARs are located on the NERC website at: <http://www.nerc.com/page.php?cid=3|329>.

⁵ Case Notes are located on the NERC website at: <http://www.nerc.com/page.php?cid=3|22|371>.

Improving RSAWs — RSAWs are continuously prioritized and reviewed for updates and improvements as appropriate. Further refinements and the addition of more information in the RSAWs to facilitate compliance were made in 2011 and are planned in 2012. Future enhancements include converting the RSAWs from Microsoft Word documents into a database and then linking them to the Reliability Standards database. RSAWs are developed based on changes to the Actively Monitored Reliability Standards list. The developments and revisions are performed as an ERO effort which includes input from the eight Regional Entities via the CMPWG.

Improving RSAWs

Continuous prioritization and review ongoing. Converting RSAWs from Word documents to database and linking to Reliability Standards database.

Audit Process Improvements — Compliance Operations, specifically the Audit Assurance and Oversight (AAO) department, reviews its processes for enhancement including the addition of references to the U.S. Government Accountability Office (GAO) Standards. AAO has enhanced its audit observation process and is developing new processes for tracking Regional Entity implementation of the CMEP and Regional Delegation Agreements (RDAs). AAO developed a Risk-Based Compliance Monitoring approach for 2011 and has made substantial changes to address risk-based compliance monitoring in 2012.

Audit Process Improvements

Developed a Risk-Based Compliance Monitoring approach, added references to GAO standards, enhanced audit observation process and developing new process for tracking Regional Entity implementation of CMEP and RDAs.

Also, the 2012 CMEP Implementation Plan includes a set of Reliability Standards that were selected based on the initiative to develop a risk-based approach for compliance monitoring. A substantial change to the 2011 risk-based compliance monitoring is the introduction of a three-tiered approach to compliance auditing.

Key Reliability Standards Spot Check (KRSSC) — The KRSSC Program is designed to improve consistency of compliance auditing implementation by capturing a snapshot of the procedures and processes being used by the eight Regional Entities to audit registered entities for compliance to those Reliability Standards that, if violated, have the highest potential to have a major impact on the BPS. Emphasis is placed on selecting Reliability Standards that, in addition to having a high impact on the BPS, could have a direct and immediate impact on real-time operations and which have been mandatory and enforceable for a full audit cycle, in order to equitably evaluate regional auditing practices. NERC staff will review the results of each Key Reliability Standards Spot Check for ways to improve the associated Reliability Standard Audit Worksheet (RSAW). While the program is not appropriate for use to arrive at conclusions regarding regional auditing practices because it reviews only one or two

Key Reliability Standards Spot Check

Designed to improve consistency of compliance auditing, with emphasis on those standards with greatest impact on BPS reliability.

audits performed by each Regional Entity, it will provide insight into the issues facing regional auditors in auditing the selected Reliability Standard and will point out the variations in processes and procedures being used by the regions that will require additional guidance to improve performance and consistency across the Regional Entities. NERC staff has completed the first Spot Check in 2011 on PRC-005-1 “Transmission and Generation Protection System Maintenance and Testing” where the final report and its conclusions are posted on the NERC website.⁶ Presently, NERC staff is working on completing a Spot Check on EOP-005-1 and is scheduled to post the final report June 2012.

Compliance Data Retention — The Compliance Process Bulletin #2011-001 “Data Retention Requirements” posted on May 20, 2011 superseded the 2009-005: “Current In-Force Document Data Retention requirements for Registered Entities.”

Compliance Data Retention
Updated bulletin on data retention requirements.

Event Analysis and Information Exchange

Event Analysis Process Document — The latest version of the process document has been reviewed and endorsed by the NERC Operating and Planning Committees and is scheduled for presentation to NERC Board of Trustees for approval in February 2012. The document includes specific analysis threshold criteria. Revisions to the Rules of Procedure with respect to Event Analysis also are planned for presentation to the Board of Trustees for approval in February 2012.

Event Analysis Process Document
Endorsed by PC and OC; to be presented to BOT for approval in February 2012.

Event Analysis Staffing — The two open positions in Event Analysis and Investigations have been filled with one person having causal analysis expertise and the other with human performance expertise.

Event Analysis Staffing
Two open positions filled.

Causal Analysis Training — The newly developed causal analysis training program was delivered in September, November and December 2011.

Causal Analysis Training
New program presented three times in 2011.

⁶ The KRSSC report for PRC-005-1 is posted on the NERC website at: <http://www.nerc.com/page.php?cid=3> | 26.

Reliability Assessment

Improve Granularity; Support Assumptions and Conclusions —

NERC has increased granularity on data and information collected towards operating areas, rather than Regional Entities. This has increased the visibility of resource assessments for operating areas, such as Independent System Operators/Regional Transmission Organizations that cross multiple regional entity boundaries. Also, NERC has developed more consistency throughout the regional assessment reports with conclusions supported by regional operating assessments. Further, NERC will deepen its analysis of systems by incorporating probabilistic analysis and support improvement of model development to support interconnection-wide analysis.

Improve Granularity; Support Assumptions and Conclusions

Collecting data by operating areas rather than Regional Entities; using regional operating assessments to support conclusions.

Avoidance of Policy Positions — NERC evaluates the impacts of policy on BPS reliability, such as environmental regulations, but does not take positions on those policies.

Avoidance of Policy Positions

Evaluate impacts of policies on BPS reliability but does not take positions on those policies.

Scenario Assessments — NERC will review in 2012 a high demand case, and use the NERC projections as a reference case for two Special Reliability Scenario Assessments: Gas-Electric Interdependency, and one other assessment yet to be defined.

Scenario Assessments

Will review in 2012 a high demand case and develop two special assessments: Gas-Electric Interdependency and one yet to be determined.

Performance Analysis and Metrics

Risk Performance Analysis — The Performance Analysis Subcommittee will be submitting its annual report, titled “State of Reliability” that will provide a consolidated view of risk measurements to NERC’s Board of Trustees in 2012. The report, and information generated in this program will measure baselines of industry trends, useful in industry risk control strategies.

Risk Performance Analysis

“State of Reliability” report submitted to Board of Trustees in 2012.

Integrated Reliability Metrics — Reliability metrics webinars and meetings will continue in 2012 and endorsement by the Planning and Operating Committees will be requested in the first quarter of 2012.

Integrated Reliability Metrics

Metrics webinars to continue in 2012. Seeking endorsement of PC and OC.

Critical Infrastructure Protection

Critical Cyber Asset Identification — NERC developed and delivered three industry webinars supporting the identification and protection of Critical Cyber Assets. On September 1, 2011, the Critical Infrastructure Department (CID) presented the *Critical Cyber Asset Identification Guideline* webinar. Additional webinars included *Implementing an Electronic Security Perimeter Where None Has Existed Before* on November 18, 2011 and *Physical Security* on November 28, 2011.

Critical Cyber Asset Identification

Three industry webinars delivered in 2011.

CIP Auditor Workshops — NERC conducted four auditor workshops in 2011 that had CIP-specific components. The ERO Auditor workshops in February and September attracted a majority of CIP auditors, and included information pertinent to all ERO auditors, as well as breakout sessions with special emphasis on CIP compliance issues. In addition to the ERO Auditor workshops, the CID also sponsored two workshops geared specifically for CIP auditors. The first CID-sponsored workshop was held on June 28 and the second CID-sponsored workshop was held on September 22-23. The CIP issues addressed during the workshops arose from recommendations from NERC staff as well as suggestions from Regional auditors, and included topics such as case studies, audit consistency, interviewing skills, writing data requests, and audit report writing skills.

CIP Auditor Workshops

Four CIP auditor workshops in 2011.

FERC Order No. 706 Directives — Version 5 of the CIP Standards was posted for comment and concurrent ballot on November 7, 2011, with the ballot period starting on December 16, 2011. Both comment and ballot periods ended on January 6, 2012. The comment and ballot produced over 2,000 pages of comments, which the Standards Drafting Team (SDT) began considering on January 11, 2012, and will continue that effort up to and during the January 24-26, 2012, meeting in Taylor, TX. The SDT will continue to resolve the comments through February, and is scheduled to finalize them at the February 21-24, 2012, meeting in Phoenix, AZ, after which the standards will be submitted to NERC Quality Review. The SDT is scheduled to meet in March to respond to the NERC Quality Review, and will be posting the revised standards for successive ballot shortly thereafter. The current schedule anticipates: industry ballot approval by June 2012; NERC Board of Trustees approval in August 2012; and filing with FERC and other applicable governmental authorities in September 2012.

FERC Order No. 706 Directives

Version 5 CIP Standards posted for comment and initial ballot. Final industry ballot in June and submittal for Board of Trustees approval in August 2012.

Technical Feasibility Exceptions (TFE) Procedure and Reporting — NERC finalized the TFE procedure, which the NERC Board of Trustees and FERC approved as Appendix 4D to the NERC Rules of Procedure. The current version of Appendix 4D took effect on April 12, 2011, and has guided the day-to-day administration of the ERO's TFE program, as well as tracking and reporting of TFE data. The first TFE report to FERC covered the period from January 1, 2010, to June 30, 2011, and was filed with FERC on September 28, 2011. NERC and the Regional Entities formed a group of "TFE Managers," which include representatives from all eight Regions and the NERC TFE Program Manager, to serve as the

TFE and Reporting Procedures finalized and FERC approved. First TFE report to FERC in September 2011. TFE Managers group formed to review approved/disapproved TFE requests for consistency.

committee to review approved and disapproved TFE requests for consistency. The TFE Managers have met regularly to discuss common concerns. TFE managers from Regional Entities also led the efforts at their respective regions for receiving, reviewing, and reporting TFE-related data.

CIP Standards Interpretations — As requested by the Standards Committee, a standing CIP Interpretation Drafting Team (IDT) has been established to address all CIP-related interpretation requests. The CIP IDT has successfully completed one outstanding interpretation, of CIP-006-x R1. The final interpretation received a ballot pool approval of 96 percent and has been submitted to the Board of Trustees for adoption. Two other outstanding CIP interpretations are expected to move to ballot in early 2012, potentially reducing the backlog of outstanding CIP interpretations by 50 percent in the short time since the CIP IDT was formed.

CIP Alerts and Information Sharing — In the first quarter of 2011, NERC reviewed the Electricity Sector Information Sharing and Analysis Center (ES-ISAC) and identified key areas for improvement. As a result of the review, NERC has implemented several changes to the ES-ISAC, including: hiring personnel to staff the ES-ISAC; deploying an upgraded ES-ISAC website, which contains announcements on threats and vulnerabilities; a calendar to display upcoming meetings and events; links to external security sites; an updated library with reports and public Alert information; and streamlining the CIP NERC Alert process development to shorten the time needed to publish alerts and to ensure key stakeholders—such as Hydra, industry trade organizations, and technical committees—are included in the development process. In addition, the ES-ISAC issued seven alerts in 2011 and worked with registered entities to track progress in mitigating the Aurora vulnerability.

The CIP Risk Assessment and Threat Division held five Aurora Webinars in 2011 with over 1,000 individuals attending — May 10, May 25, November 18, December 7 and December 9. These webinars provided BPS entities with an opportunity to review the material supporting the NERC Aurora alert and to ask many questions.

Contributing to the Alert process, the Hydra group continues to evolve and grow. Hydra was integrated into the NERC Alert development process and has successfully provided critical and timely feedback to NERC. Hydra's involvement was highlighted

CIP Standards Interpretations

Standing drafting team established to address all CIP interpretation requests.

CIP Alerts and Information Sharing

Implemented changes and updates to ES-ISAC website and information sharing process.

Seven Alerts issued in 2011; tracked progress in mitigating Aurora vulnerability.

Hydra group integrated into Alert development process.

during the development of several recent NERC Alerts including the “Telephony-enabled Weakness” alert. Hydra will have a collaboration tool in the newly-designed ES-ISAC portal and will continue to evolve and be augmented by specific external subject matter experts as necessary.

Situation Awareness

SAFNR Version 2 —NERC expects to have live streaming of information from 8 Reliability Coordinators by February 1, 2012.

SAFNR Version 2

Live streaming of information from 8 RCs will commence as soon as NERC CIP audit is completed.

Training, Education, and Personnel Certification

Advanced System Operator Credential — The NERC Personnel Certification Governance Committee (PCGC) issued a white paper for industry comment on this concept, which included additional testing requirements, simulation testing, and specific number of years experience to qualify for the advanced credential. Industry comments indicated no benefit to creating an advanced credential that would be offered on a voluntary basis. As a result the PCGC halted the project. This was reported to the NERC board and no further work on this concept is expected at this time.

Advanced System Operator Credential

Project halted as a result of industry comment that new credential would provide no benefit.

Broaden Operator Certification Program – The PCGC had been working on broadening the renewal process so that certified system operators will be required to take a certain number of task (job)-related courses as part of their renewal requirements. The PCGC has tabled this topic to allow the industry to implement the new PER-005 requirements. This concept may be readdressed in the future.

Broaden Operator Certification Program

Consideration on broadening renewal process to allow job-related courses to be credited for renewal. On hold pending implementation of PER-005 requirements.

Improve System for Tracking Continuing Education Hours – NERC continues to identify improvements to the Certification and Continuing Education database. The latest round of changes to improve functionality were tested and implemented in September 2011. Development of recommended changes for 2012 will begin first quarter 2012 with input from the PCGC and Personnel Subcommittee.

Improve System for Tracking CEHs
Improvements to Certification and Continuing Education Database developed, tested and implemented.

Offer More Targeted and Timely Education Programs – Training resources were added to the training group to provide training expertise to support improved educational programs. NERC hired a new Training Director and a Training Manager in June, and a Technical Training Specialist in August 2011. The ERO Training and Education Group began discussions in late 2011 and met in January to identify educational topics that most benefit the industry. NERC is also working with the Operating Committee’s Personnel Subcommittee to develop guidance on the elements of strong training programs and to support training needs associated with strategic issues identified by the committee.

Offer More Targeted and Timely Education Programs

Training resources added to improve education programs. Working with OC Personnel Subcommittee on elements of strong training programs.

“Open Source” System for Providing Information — NERC researched the use and benefits of using “open source” collaborative systems for providing information to the industry. The use of tools such as blogs and wiki’s has merit, but also drawbacks, such as inappropriate use of implied guidance from NERC. Because of the resources and attention needed to adequately monitor and control such platforms, no additional action is planned.

“Open Source” System for Providing Information

Researched options but determined drawbacks exceeded benefits.

Finance and Controls

Multi-year Business Plans and Budgets — As part of the 2012 Business Plans and Budgets, NERC and the Regional Entities included information with respect to 2012-2014 projected resource requirements to meet the Strategic Goals and associated objectives.

Multi-Year Business Plans and Budgets

2012-2014 projected resource requirements included in 2012 Business Plans and Budgets.

Long-Term Strategic Goals — NERC has been working and will continue to work with the Regional Entities to develop long-term strategic goals, objectives, assumptions and financial forecasts and utilize and include this information in the annual business planning and budgeting process and documentation. This effort will be undertaken each year as part of the business planning and budgeting process.

Long-Term Strategic Goals

Continuing to work with Regional Entities to develop ERO Enterprise strategic goals.

Uniform Budgeting Tool — Common templates have been developed and are used by NERC and the Regional Entities for budget preparation and presentation. Beyond the development and use of common templates, NERC and the Regional Entities have been developing three-year forecasts for use in each annual business planning and budgeting cycle. This information was included in NERC and the Regional Entities’ proposed 2012 Business Plans and Budgets and will continue to be refined and utilized in connection with the preparation of each annual business plan and budget.

Uniform Budgeting Tool

Common templates developed and used by NERC and Regional Entities.

Status of Critical Infrastructure Initiatives

Action

None

Overview

The Critical Infrastructure Department (CID) is addressing the following list of activities. Each item includes a brief description of the activity and a status update.

White House Maturity Model Initiative

The Electricity Sector Cybersecurity Risk Management Maturity pilot program is a White House initiative led by the Department of Energy (DOE), in partnership with the Department of Homeland Security (DHS), and in collaboration with volunteers from Electricity Sub-sector asset owners and operators. In this initiative, DOE and DHS will leverage the National Infrastructure Protection Plan framework as a public-private partnership mechanism.

The high-level objectives of this initiative are to develop (1) a cybersecurity risk management maturity model specific to the Electricity Sub-sector, and (2) a common understanding of cybersecurity risk management capabilities for the Electricity Sub-sector that reflects the diversity and functional differences within the sector. To accomplish these objectives, this initiative will tie together and build on existing cybersecurity activities within DOE, DHS, and the Electricity Sub-sector.

Energy Security Public-Private Partnership (ES3P) Update

NERC signed ES3P formation documents and delivered them to DHS. ES3P is a Critical Infrastructure Partnership Advisory Council Joint Working Group that brings the Department of Energy, DHS, and the Department of Defense (DoD) together with industry, industry trade associations, and assessment groups to discuss critical infrastructure and mission assurance imperatives in a protected environment (**Federal Advisory Committee Act-exempt**).

Collaborative dialogue will foster enhanced resilience planning to achieve sustainable and cost-efficient critical infrastructure protection enhancements. The Office of Assistant Secretary of Defense for Homeland Defense and America's Security Affairs will be meeting on January 18 with the Energy Grid Security Group, a DoD senior executive forum, to conduct late stage socialization, and ES3P meetings in the February-March timeframe. Potential topics for discussion include understanding where the assessment process stands for the Defense Industrial Base sector and major fleet and force concentration areas, as well as how industry and government can best leverage assessment data.

Grid Exercise (GridEx) 2011 Results

CID drafted an after-action review following NERC's first sector-wide grid security exercise, GridEx 2011, which took place November 16-17, 2011. The exercise was designed to validate the readiness of the Electricity Sub-sector to respond to a cyber incident, strengthen utilities' crisis response functions, and provide input for internal security program improvements. Seventy-five industry and government organizations from the United States and Canada participated.

An after action team reviewed player questionnaire submissions, interviews, and exercise communications after the exercise. The findings, which were highlighted in a final report delivered to industry in January 2012, identified key themes and recommendations. Some of the findings include:

- Entities possess effective cyber incident response plans, but updates to protocols and guidelines could enhance preparedness.
- Significant horizontal communication occurs across industry, but vertical information sharing to NERC and government agencies is limited due to unclear reporting requirements and concerns about compliance implications. Clearer reporting guidance could promote more information sharing.
- NERC's Electricity Sector Information Sharing and Analysis Center (ES-ISAC) and Reliability Risk Management team effectively serve a central coordination function, but expediting the NERC alert process, refining call mechanics and activating the ES-ISAC portal can enhance the organization's response role.
- Because physical intrusions into the bulk power system (BPS) infrastructure can have grave cyber implications, entities should ensure their response protocols address the coordinated threat.
- While the NERC Emergency Standards process would expedite urgent standards development, requirements could interfere with core incident response activities at the entity level.

ES-ISAC Update

The ES-ISAC is striving to become the central Electricity Sub-sector resource for information gathering, organization, analysis, and sharing for cyber, physical, and hybrid security issues affecting reliability. The ES-ISAC's operational goals are to prevent the first instance of a security or all-hazards event before it occurs, or mitigate impact of any subsequent events to eliminate or reduce their impacts to BPS operation.

The ES-ISAC accomplishes its mission by providing for sector-wide cyber and holistic security coordination, trust, and engagement. This vision is achieved through rapid sharing and analysis of information with the sector and its partners, and providing sector-wide visibility. It is further enabled by successful event coordination and issue analysis, representation, and information dissemination. Enabling tools include:

- A legal separation of the ES-ISAC function from NERC's Compliance Enforcement and Monitoring role
- A website and secure members-only portal
- Monthly critical infrastructure calls
- Frequent webinars to engage frontline security professionals on priority issues
- A technical resource library delivering knowledge managed reference material
- Full operational integration with the DHS-operated National Cybersecurity and Communications Integration Center watch operations (a Top Secret Threat and Vulnerability platform)

- Sector facilitation of public-private critical infrastructure and mission assurance information sharing venues
- Authoritative risk and mission assurance informed BPS risk assessment methodology
- A comprehensive BPS risk management framework driven by approved policy

Critical Infrastructure Protection Audits

For 2012, CID has several changes to the CIP Audit Program. CID plans to:

- Conduct 21 Oversight Audits in 2012 (up from 14 in 2011);
- Conduct four CIP Auditor Workshops promoting consistency within the Electric Reliability Organization (ERO);
- Host four CIP Standards and Compliance webinars to educate and update industry on CIP issues; and
- Continue to work closely with the CIP Compliance Working Group to ensure Auditors are consistently applying good audit practices across ERO.

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NORTH AMERICAN ELECTRIC
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Critical Infrastructure Department Updates

Matt Blizzard, Director, Critical Infrastructure Department
Board of Trustees Meeting
February 9, 2012

RELIABILITY | ACCOUNTABILITY



- White House Cybersecurity Risk Maturity Model Initiative
- Energy Security Public-Private Partnership (ES3P)
- Grid Exercise (GridEx) 2011
- Electricity Sector Information Sharing and Analysis Center (ES-ISAC)
- Improving Critical Infrastructure Protection (CIP) Audits

- Electricity Sector Cybersecurity Risk Management Maturity Project
 - Collaborative approach to measure sector risk management capability
 - Department of Energy (DOE) is leading efforts
 - Key players are: White House Staff, DOE, Department of Homeland Security (DHS), Electricity Sub-sector Coordinating Council, selected owner operators
 - Phase 1, complete maturity model
 - Phase 2, pilot the model and obtain feedback
 - Phase 3, finalize model and provide expanded use recommendation (April-May 2012)

- The ES3P, a joint working group, will:
 - Organize industry and government input to critical infrastructure assessment
 - Interface with the newly forming Energy Government Coordinating Council Working Group (Critical Energy Infrastructure Surety Working Group)
 - Bring together industry owner-operator subject matter expertise and government assessment professionals
 - Facilitate mitigation information sharing and collaboration by extending National Infrastructure Protection Plan frameworks already in place

GridEx 2011 - Objectives

1

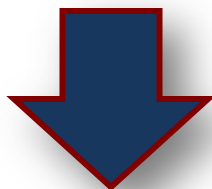
Validate the current readiness of the electricity industry to respond to a cyber incident and provide input for security program improvements

2

Exercise NERC and industry crisis response plans and identify gaps in plans, security programs, and skills

3

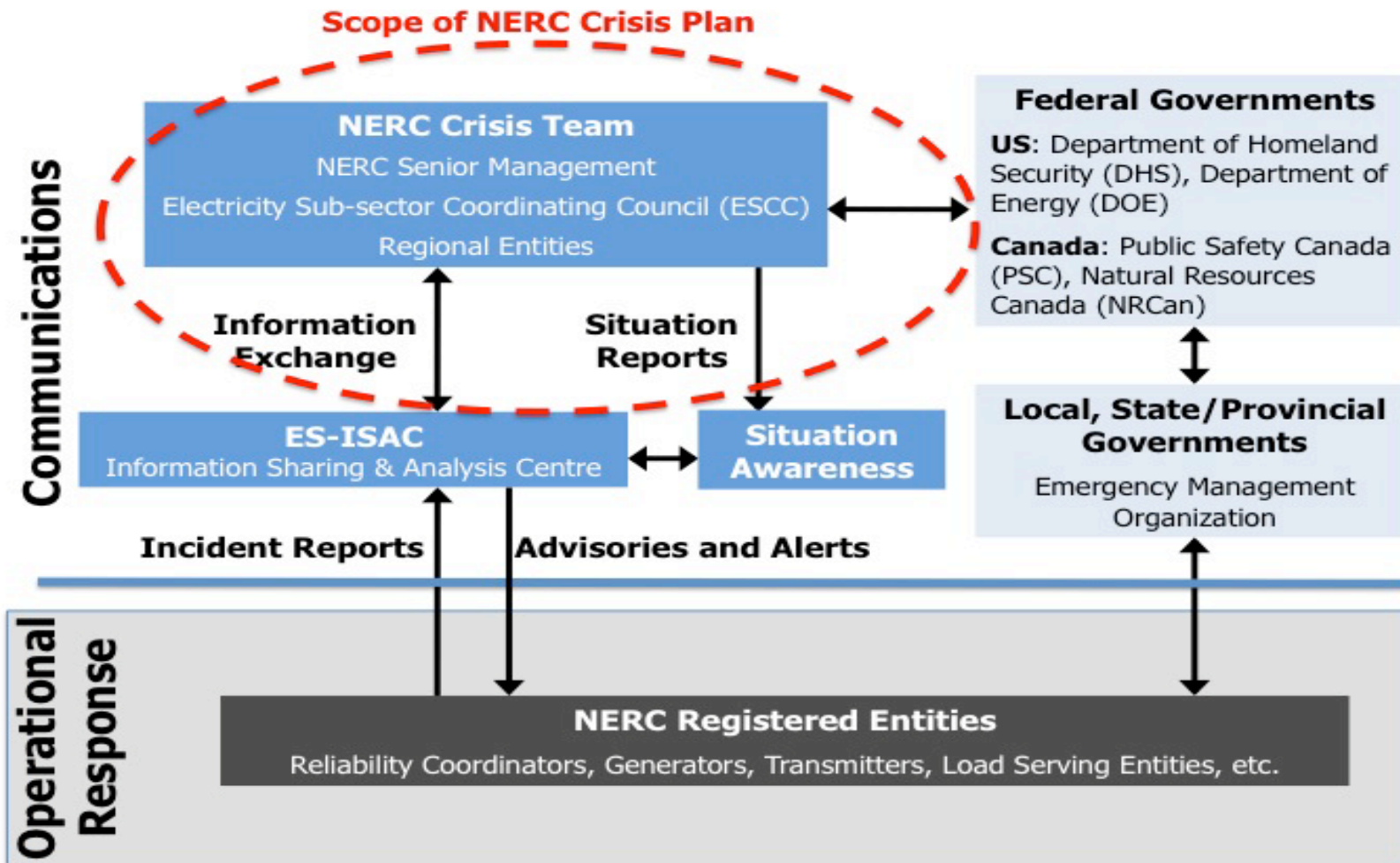
Assess, test, and validate existing Command, Control and Communication Plans for key NERC stakeholders



Executive TTX Goal

Leverage distributed exercise outcomes to inform and explore senior-level decision making during a coordinated attack on the electric grid

Information Sharing in GridEx



- NERC received draft report on December 16, 2011
- NERC sanitized and re-issued report to industry in January 2012
- Report's Key Themes:
 - Significant sharing among registered entities, but vertical information sharing can be improved
 - Clarify roles between the ES-ISAC and NERC Situation Awareness
 - Information sharing across entity business units and departments occurred frequently, but response gaps and areas for improvement emerged

- Goals for the ES-ISAC Portal in 2012
 - Act as the clearinghouse for registered entities to securely find, share, and collaborate on critical infrastructure and security related information
 - Extend the functionality and use of the portal that was put in place in 2011
 - Utilize Microsoft technology and maintain alignment with existing and future information technology (IT) in-house initiatives
 - Portal will undergo aggressive schedule following several iterations of Design Build Test Promote cycles

Objectives:

Portal 1.0 go-live – This will put the portal out of pilot mode and into full production open to all registered entities

HYDRA – This will create a collaborative zone strictly for registered entity HYDRA members

Task Force Collaboration Zones – This will create a collaborative zone strictly for registered entity task forces

Portal 1.5 – This will have a formal feature addition list for the main site as well as HYDRA and Task Forces

Condition Reporting – This will serve as a hub to report one event by the registered entity to various groups such as CID, SA, EA

Portal 2.0 – Feature and polish incremental release (TBD during design phase)

The portal will facilitate the vertical communications that were regarded as lacking during GridEx 2011

- **Current Status**

- Current Pilot is in full swing for registered entities
 - Sent 150 invitations
 - Over 60 entities have registered (35% participation rate)
- Finalizing Charter and Project Plan now
 - Currently under review with IT
- Finalizing third-party contract
- Forming an advisory group from peer ISACs to provide guidance and lessons learned from their sectors on their portal development

- In 2012, CID will:
 - Conduct 21 Oversight Audits in 2012 (up from 14 in 2011)
 - Conduct four CIP Auditor Workshops promoting consistency within the Electric Reliability Organization (ERO)
 - Host four CIP Standards and Compliance webinars to educate and update industry on CIP issues
 - Continue to work closely with the CIP Compliance Working Group to ensure Auditors are consistently applying good audit practices across ERO

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NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Government Relations Update

Janet Sena

Vice President and Director,
Policy and External Affairs

February 9, 2012

RELIABILITY | ACCOUNTABILITY



- 3 Events in 2011
 - February Cold Snap Event
 - New Mexico Field Hearing
 - FERC/NERC report
 - September 8 Southwest Blackout
 - State legislative hearing
 - October Northeast Snowstorm Event
 - Congressional letters

- Long-term Reliability Assessment (LTRA) Report
 - EPA MATS Rule Reliability Component
- FERC Technical Conferences
- FERC/NARUC Forum

- Cybersecurity Legislation
- Election Year Energy Drivers
 - Economy
 - EPA Regulations
 - Cybersecurity
 - Taxes
- Gridlock

- 212 media queries in 2011 – 20.5 monthly average
- Communication training for NERC management
- Regional Communicators Group

Operating Committee (OC) Report

Action

None

OC's Major Accomplishments for 2011

1. Event Analysis Working Group (EAWG) Process and Lessons Learned – Links to Top Priority Issues 1 (Misoperations of relay protection and control systems) and 2 (Human errors by field personnel).
2. Geomagnetic Disturbance and Severe Impact Resilience Task Forces – Links to Top Priority Issue 7 (Preparedness for high impact, low frequency events).
3. Frequency Response – Links to Top Priority Issue 5 (Changing resource mix).

OC's Major Initiatives for 2012

1. EAWG Work and Lessons Learned – Links to Top Priority Issues 1 (Misoperations of relay protection and control systems) and 2 (Human errors by field personnel).
2. Geomagnetic Disturbance and Severe Impact Resilience Task Forces – Links to Top Priority Issue 7 (Preparedness for high impact, low frequency events).
3. Human Performance and Field Personnel – Links to Top Priority Issues 1 (Misoperations of relay protection and control systems) and 2 (Human errors by field personnel).

Background

This report provides a summary of the key activities of the OC and its associated subcommittees in support of the NERC or OC mission and corporate goals. All these activities support the NERC or OC mission and NERC corporate goals. The December 2011 OC meeting minutes are posted at ([OC December 2011 Meeting Minutes Link](#)).

Critical Infrastructure Strategic Initiatives: Coordinated Action Plan

The OC was provided status reports from the Geomagnetic Disturbance and the Severe Impact Resilience task forces. Having OC representatives make up the leadership of these two task forces has enabled the OC to ensure alignment to NERC priorities.

Event Analysis Process

The EAWG presented Version 3 of the Events Analysis Process (EA Process) to the OC for endorsement. The OC did not endorse the EA Process at its December 2011 meeting primarily because of potential conflicts between the EA Process, the draft Rules of Procedure (ROP), and the work of the Disturbance and Sabotage Reporting Standard Drafting Team. The Standard Drafting Team is currently reviewing EOP-004 (Event Reporting) and CIP-001 (Sabotage Reporting). Subsequent to the meeting the OC leadership and the EAWG worked to address the concerns expressed. By an email vote, the OC approved the revised EA Process.

Transition of the Interchange Distribution Calculator (IDC)

Frank Koza, PJM's reliability coordinator, presented an overview of the discussions taking place by the Eastern Interconnection reliability coordinators to transition the IDC, and perhaps related reliability applications, to the user community. The team is focusing on the development of a consortium agreement among Eastern Interconnection reliability coordinators. The consortium agreement is being structured such that the NERC/OATI IDC agreement could be assigned to the consortium, along with other NERC funded reliability applications.

Status Report of Smart Grid Investment Grants and Demonstration Projects Deploying Synchrophasor Technology

Alison Silverstein, the North American SynchroPhasor Initiative (NASPI) project manager, provided a NASPI update. Ms. Silverstein succinctly noted that NERC and its constituencies should care about phasor technology because it will help (and is already helping) to improve electric grid reliability by providing new solutions and insights for grid operators and planners.

She also provided an overview of Smart Grid Investment Grants for synchrophasor projects through 2013 and highlighted some of the more significant milestones regarding the use of phasor measurements in a variety of technical applications. One such milestone is application of PMU data in wide-area visualization and voltage and frequency monitoring.

OC Strategic Plan

In September 2011, the OC appointed an *ad hoc* team, chaired by OC Vice Chair Jim Castle, to develop an OC Strategic Plan for 2012 through 2016. The *ad hoc* team presented a draft strategic plan to the OC at its December 2011 meeting. The Strategic Plan describes the mission, vision and guiding principles as well as outlines the areas of strategic focus and key activities for the next five years, while recognizing changes that may be required in the future by calling for an annual review. The OC approved the 2012 – 2016 Strategic Plan.

Manual Time Error Correction Elimination Field Trial

Terry Bilke, chair of the Resources Subcommittee (RS), reviewed the results of the OC Manual TEC Correction Survey. The majority of respondents indicated that the most important driver for the elimination of manual TECs is that TECs are a commercial service and not a Reliability Standard. In addition, most survey respondents preferred to change TECs to an operating procedure rather than a standard and pursue ways to do fewer and less intrusive TECs. When asked if a staged test is conducted by starting in one Interconnection which Interconnection should that be, fifty percent responded that the field trial should begin in the Eastern Interconnection. The OC did not reaffirm its December 2010 motion that directed the RS to develop a field trial to eliminate manual time error corrections. As such manual time error correction will continue to be a part of daily operations.

Following this action, the OC tasked the RS to investigate the causes of fast time (i.e., Interconnection operating above 60 Hz), to evaluate the reliability risk and to investigate other issues around reliability, including compliance risks.

OC Subgroup Highlights

The OC now has 13 subgroups, five of which jointly report to the Planning Committee (PC) and the OC.

Joint OC/PC subgroups highlights

1. **Reliability Metrics Working Group (RMWG)** – The OC approved the RMWG’s work plan and timeline related to the development of Integrated Reliability Indicator concepts.
2. **Performance Analysis Subcommittee (PAS)** – The OC approved the scope of the PAS.

Other Subgroup Highlights

1. **Operating Reliability Subcommittee (ORS)** – The ORS continues to work with the North American Energy Standards Board’s Business Practices Subcommittee on the Parallel Flow Visualization project and is addressing the notification process for geomagnetic disturbances.
2. **Resources Subcommittee (RS)** – The RS is working toward completion of the ACE Diversity Interchange white paper. The RS is also working with the Frequency Response Standard Drafting Team to identify frequency events within each of the Interconnections.

Operating Committee (OC) Strategic Plan

Action

Approve the OC 2012–2016 Strategic Plan.

Background

In September 2011, the OC appointed an *ad hoc* team, chaired by OC Vice Chair Jim Castle, to draft the OC's Strategic Plan and develop goals to align the committee's activities with the NERC ERO enterprise's strategic plan and top priority reliability issues. The *ad hoc* team presented a draft 2012–2016 Strategic Plan at the OC's December 2011 meeting for comment. The OC approved the 2012–2016 Strategic Plan and recommends it for consideration and approval by the Board of Trustees (BOT).

OC 2012–2016 Strategic Plan

The 2012–2016 Strategic Plan serves as the foundation for the alignment ([OC 2012-2016 Strategic Plan Link](#)) of OC activities; including coordination with other standing committees and the strategic direction of NERC and its BOT. The Strategic Plan emphasizes conforming activities with the priorities of the NERC ERO enterprise and regulators, providing technical foundations for reliability issues, and effectively using the OC's resources. The Strategic Plan describes the mission, vision and guiding principles as well as outlines the areas of strategic focus and key activities for the next five years, while recognizing changes that may be required in the future by calling for an annual review.

Implementation of the OC 2012–2016 Strategic Plan and Linkage to NERC's Top Priority Issues

The following table reflects specific activities that the OC and its subgroups will be addressing in 2012 and beyond.

Activity No.	OC Area	OC Activity	Why is the activity required?	Deliverable and Schedule
1.1 1.2 1.3 1.4 1.5	Top 10 operating priorities	Prioritize OC's top 10 operating priorities Improvement to Existing Standards Recommend New Standards Provide comments on key Standards Respond to requests for Interpretations	Support All & Help Define Future NERC Top 10 Goals	Annual Report with OC approval in May
2.1	Lessons Learned	Event Analysis Subcommittee will recommend improvements, share information, recommend new training, support NERC's ongoing reporting efforts	Will Drive Priorities	Annual Report with OC approval in October
2.2	Communications Improvements	Develop and recommend guidance for Operators clarifying communications expectations	Ambiguous or incomplete voice communication	Annual Report with OC approval in November
2.3	Human Error Prevention	Webinar on best practices to prevent human errors	Human Error Prevention	Webinar in 2012

2.4	How to Communicate	Personnel Subcommittee to promote communication improvement	Ambiguous or incomplete voice communication	Webinar in 2012
3.1	Understand relaying and protections schemes	Personnel Subcommittee will facilitate informational sharing on the use of existing and Special protections scheme	Relay Misoperation	Webinar in 2012
3.2	Use of new tools	Investigate and share information on the application of new tools such as synchrophasors.	Integration of New Technologies	Provide updates at the OC meetings
4.1	Reports and Assessments	Resources Subcommittee to provide operational input into NERC reports including seasonal assessments	Support NERC Top 10 Goals	On-going
4.2	HILF	Address selected risks from possible high impact low frequency events	Preparedness for HILF Events	On-going
4.3	Metrics Development	Develop meaningful operational reliability metrics	Support NERC Top 10 Goals action.	On-going
4.4	Dissemination of secure information	Secure and reliable method to disseminate information	Preparedness for HILF Events	On-going
4.5	Collaboration with other committees	Work with other committee on NERC issues	Support NERC Top 10 Goals	On-going/ One-time
5.1	Integration of new resources	Identify operating challenges and trends	Integration of New Technologies	On-going
5.2	Integration of new resources	Innovative solutions to operating challenges	Integration of New Technologies	On-going

Planning Committee (PC) Status Report

Action

No action requested.

2011 Year in Review

In support of the NERC PC's long-term vision, significant accomplishments were achieved in 2011 which uphold the ERO's overall reliability mission. Along with the committee's development of a five-year strategic plan and its annually produced reliability assessments, key deliverables contributed to the overall success of the committee, aligning not only with the PC vision and strategic objectives but also with the priorities of the NERC ERO enterprise. The Committee's major accomplishments in 2011 are summarized below:

- **2011 Long-Term Reliability Assessment**¹ - The annual long-term reliability assessment provides an independent, ten-year view of the electric industry by evaluating key reliability indicators, including peak demand, energy forecasts, resource adequacy, transmission development, changes in overall system characteristics and operating behavior, and other issues that may impact the reliability of the bulk power system. Of particular interest in the *2011 Long-Term Reliability Assessment* was the integrated assessment and analysis on potential environmental regulations and its projected impact to system reliability.

Strategic Importance – Reliability assessment enables the PC to support NERC's reliability mission, identify potential reliability issues and associated risks, and provide technically sound and accurate assessments to the NERC Board of Trustees. Spearheading NERC's effort to promote reliability when considering new environmental regulations, the *2011 Long-Term Reliability Assessment* provided input to policy makers and subsequently provided the technical substantiation needed to understand the cumulative impacts of multiple environmental regulations. The annual report provides a foundation for reliability assessment, emerging issues and reliability concerns, and technical planning analysis—three areas of the PC's strategic focus.

- **Spare Equipment Database (SED)**² - The SED is primarily a tool to be developed, populated, and managed by participating organizations to facilitate timely communications between those needing long-lead time equipment possibly damaged in a high-impact, low-frequency (HILF) event (i.e., widespread, coordinated physical/cyber attacks or geomagnetic storms) and those equipment owners who may be able to share existing equipment being held as spares by their organization. In less than a year, the SEDTF, under the direction of the PC, formed and developed BOT approved recommendations to develop a data system to inventory spare equipment and to facilitate timely communications between those entities needing long-lead-time equipment possibly damaged in a HILF event.

Strategic Importance – Once in service, the SED will provide a comprehensive North American spare equipment database to aid in assessing the impact of HILF or other catastrophic scenarios and restoration of electrical power to large areas. The report and follow-on activities by the task force is an example of the ERO's commitment to reducing

¹ http://www.nerc.com/files/2011%20LTRA_Final.pdf

² http://www.nerc.com/docs/pc/sedtf/SEDTF_Special_Report_October_2011.pdf

the industry's vulnerability to HILF events. From a planning perspective, preparedness for HILF events is a key strategic objective.

- **2011 Risk Assessment of Reliability Performance Report**³ - This report begins a transition from the 2009 metric performance assessment to a 2012 "State of Reliability" report.⁴ The annual *State of Reliability* report will ultimately communicate the effectiveness of ERO (Electric Reliability Organization) reliability programs and present an overall view of reliability performance.

Strategic Importance – The PC is committed to provide technical insight and advice into the development and improvement of reliability metrics, and adopt a set of reliability performance measures to benchmark and assess the effectiveness of the NERC ERO enterprise and the industry in order to guide and provide insight, trends, and emerging risks associated with these efforts. The development of reliability performance indices and metrics and data requirements is coordinated with the OC and CIPC. Developing integrated risk metrics to provide a more holistic view for measuring the reliability of the bulk power system is a key strategic objective.

- **2011 Special Reliability Assessment: Gas and Electric Interdependencies**⁵ - The majority of new North American generating capacity projected for the next 10 years will rely on natural gas as its primary fuel. With a shift to unconventional gas production in North America, the potential to increase availability of supply makes gas-fired generation a premier choice for new generating capacity in the future, overtaking and replacing coal-fired capacity. However, increased dependence on natural gas for generating capacity can amplify the bulk power system's exposure to interruptions in natural gas fuel supply and delivery.

Strategic Importance – A changing resource mix is identified as one of the most critical emerging issues affecting long-term reliability. This report positions the PC as the leader in assessing these issues from a continent-wide perspective with the focus on reliability. The Phase I primer will serve as a tactical platform to engage both industries on known issues. NERC is already engaged with associations from the natural gas industry to conduct further studies to identify the risks and vulnerabilities associated with the growing interdependence. As an ERO top priority reliability issue, understanding the interdependencies as a result of a changing resource mix is part of the PC's annual strategic activities in support of the ERO enterprise.

2012 Outlook

From a tactical perspective, in respect to the long-term strategic plan, there are four key deliverables, in addition to the committee's annual assessments, that will be the focus of the PC in 2012. These are:

- **Misoperations of Relay Protection and Control Systems**
The System Protection and Control Subcommittee and Performance Analysis Subcommittee are tasked with providing tools to planners and operators, as well as measure and identify trends of relay misoperations to support industry efforts to improve reliability performance. In conjunction with the Standards Committee's

³ http://www.nerc.com/files/2011_RARPR_FINAL.pdf

⁴ Name of report subject to change

⁵ http://www.nerc.com/files/Gas_Electric_Interdependencies_Phase_I.pdf

drafting teams, technical guidance will be provided on a number of standards with a report for relay maintenance and adequacy of protection system engineering.

- **State of Reliability**

The ultimate goal of the *State of Reliability* report is twofold. First, the report will illuminate the historical, overall bulk power system reliability picture. By using robust data, the reliability of the system can be explained and documented. Currently, there are no measures, datasets, or reports that explicitly and completely state the historical performance of the system. Second, the report will help identify risk clusters, and prioritize and create actionable results for reliability improvement. Once a risk universe has been found, it can be parsed into component clusters. These significant risk clusters can be selected as priority projects to develop coordinated and multifunctional solutions to relevant problems. The *State of Reliability* report will provide an industry reference for historical bulk power system reliability, analytical insights with a view to action, and will enable the discovery and prioritization of specific and actionable risk control steps.

- **Technical Justification for BES Definition Thresholds**

Technical assistance will be needed from the NERC Technical Committees and has been requested by the Definition of Bulk Electric System Standard Drafting Team (DBES SDT), the NERC Standards Committee, the NERC Members Representative Committee, and the NERC Board of Trustees as a key component to the success of Phase 2 of the project; and, it is the DBES SDT leadership's desire to engage these committees as soon as possible. The DBES SDT along with the Committees will be establishing a "technical justification project plan" which will identify the appropriate committee or subcommittee to conduct studies and analysis. For example, the BES definition generator threshold and applicable transmission voltage may require studies, which will need the PC's support in 2012.

- **Phase II – Gas and Electric Interdependencies**

With a primer (Phase I) developed and risks identified, the Phase II study is expected to identify specific vulnerabilities that can affect reliability as more gas-fired capacity is integrated into the bulk power system. NERC will use the Phase I report as a platform for discussion with the gas industry to begin discussions on how to resolve the many issues identified. Many of these discussions are already ongoing between NERC and the North American Energy Standards Board (NAESB), the Natural Gas Supply Association (NGSA), and the Interstate Natural Gas Association of America (INGAA).

Recommendations from this report are expected to provide input to foster change in the areas of gas infrastructure planning, contracting and tariff practices, market and regulatory rules, and power system planning and operations.

PC Strategic Plan

At the December 2010 meeting, the Planning Committee initiated the development of a strategic plan to guide the PC and its subgroups in the development of their work plans. This Strategic Plan provides a clear focus for the NERC PC efforts over the 2011–2016 timeframe.

The landscape that the entire electric industry operates within is a dynamic and rapidly changing one. This Strategic Plan is intended to guide the functions and core mission of the PC over the next 3-5 year horizon, and thereby, provide stability and confidence in a sustainable set of expectations and deliverables. Further, if there are key strategic changes that emerge, the PC will revisit the Strategic Plan and ensure alignment with the NERC Electric Reliability Organization (ERO) enterprise. An annual review of the PC Strategic Plan during summer 2012 will allow the leadership to ensure the plan remains current and achievable.

The strategic plan emphasizes the alignment of PC activities from several perspectives, including:

- Conforming with priorities of the NERC ERO enterprise, Federal, state/provincial regulators, and the Electricity Sub-Sector Coordinating Council (ECCC);
- Providing a technical foundation for reliability issues;
- Matching PC resources with priorities; and
- Efficiently using PC resources.

Additional Background

The last PC meeting was held in December 2011 in Atlanta, GA. The draft minutes are posted at <http://www.nerc.com/filez/pcmin.html>.

Key items addressed at the December 2011 meeting were:

- Approval of *Request for Public Comment on the Transmission Availability Data System (TADS) Proposed 100-199kV Automatic Outage Data Collection*⁶
- Approval of *Electric Reliability Organization Event Analysis Process*
- Approval of *Procedures for Modeling Development and Validation*
- Approval of *Use of Circuit Breaker Position Indication in Breaker Failure Protection*
- Approval of *Gas and Electric Interdependency Phase II Study Scope*

Future Meetings

The PC future meetings are scheduled as follows:

- March 6-7, 2012 – Phoenix, AZ (confirmed)
- June 19-20, 2012 – Toronto, Canada
- September 18-19, 2012 – St. Louis, MO
- December 11-12, 2012 – Atlanta, GA

⁶ Follow on Request Letter: http://www.nerc.com/docs/pc/tadswg/Section_1600_Data_Request_Letter_DRAFT_TADS_100-199kv_12-15-11_mm.pdf

.....**Critical Infrastructure Protection Committee Report**

Action

None

2011 Accomplishments

- Completion and approval of the updated “Business Continuity Guideline.”
- CIPC sponsored a DHS training event on Improvised Explosive Devices at the September meeting. Additional training events are being planned in conjunction with the 2012 CIPC meetings to support NERC as a learning organization.

2012 Goals & Objectives

- **Reorganize and expand the CIP committee structure** to facilitate accomplishment of a greater volume of work and deliverables. This will include establishing new subcommittees in areas such as physical security and cyber security that will provide oversight for specific task force and working group efforts as well as creating new task forces and working groups to address the new initiative requests from the NERC CEO and Board of Trustees
- **Create and assign a Personnel Security Clearance Task Force** to deliver recommendations to industry and government for private sector Security Clearances. This will entail coordination with the Department of Homeland Security to increase the number and levels of U.S. Government Security clearances available to members of the CIPC and other industry Subject Matter Experts.
- **Create and assign a BES Security Metrics Working Group** that will collaborate with the CIPC EC, CIPC members and NERC Staff develop an ongoing “Annual Security Assessment” report. This working group will reach out to the joint OC/PC Events Analysis Working Group to ensure a coordinated effort between the groups.
- Completion and approval of the **Cyber Attack Task Force Report** as well as the **Protecting Sensitive Information Guideline** and **Physical Security Guideline**. All three documents are on track for completion in the first or second quarters.

CIPC Strategic Plan

- Targeting approval at the March CIPC meeting and subsequent submission to the Board of Trustees for their approval at the May Board of Trustees meeting.
- The document contains a work plan outlining the specific activities for 2012 and outlying years to accomplish the goals contained in the strategic plan.
- Key elements of this new document are designed to align with new initiatives requested from Mr. Cauley and the Board of Trustees, alignment with NERC’s strategy and goals as well as Mr. Cauley’s top priorities for NERC.

*Charles Abell
NERC CIPC Chair*

Personnel Certification Governance Committee Report

Action

None

Background

This report highlights the key activities of the Personnel Certification Governance Committee (PCGC). The PCGC meets four times a year in addition to conducting taskforce meetings as needed. The meeting minutes are posted at <http://www.nerc.com/filez/pgcmin.html>.

Accomplishments

The PCGC has updated Section 600 of the Rules of Procedure Appendix 6 to incorporate the critical points of the "System Operator Certification Manual". The System Operator Certification Program manual has been updated to reflect the current process.

The Examination Working Group (EWG) has completed the process and preparation of the new certification exams for each of the four credentials. New exams have been approved for publishing and are scheduled to be available to the industry February 9, 2012.

Exam changes include:

- Updated content outlines.
- Exams updated to current NERC Reliability Standards, where applicable.
- The cut scores were lowered to account for the expected increase in difficulty in the Balancing-Interchange-Transmission exam, the Transmission Operator exam, and the Balancing exam.

An announcement was included in the August 2011 and January 2012 NERC newsletter and an email was sent to industry training providers notifying them of the upcoming exam update and the one week "blackout" period of February 1-8, 2012.

PCGC continues to demonstrate success in the maintenance and oversight of NERC's System Operator Certification Program.

Future Tasks

The committee does not expect to propose changes to the certification program that would require posting for comments.

The PCGC will continue to work on documentation of the credential establishment process, credential benchmarking, and documenting the certification program budget process to assist in developing the PCGC budget.

We will continue to assess the System Operator Certification and Continuing Education Database (SOCCED) for upgrades.

Status Report

NERC Certification Examination Pass Rate

Through end of year 2011, a total of 874 exams were taken and the overall pass rate has remained stable.

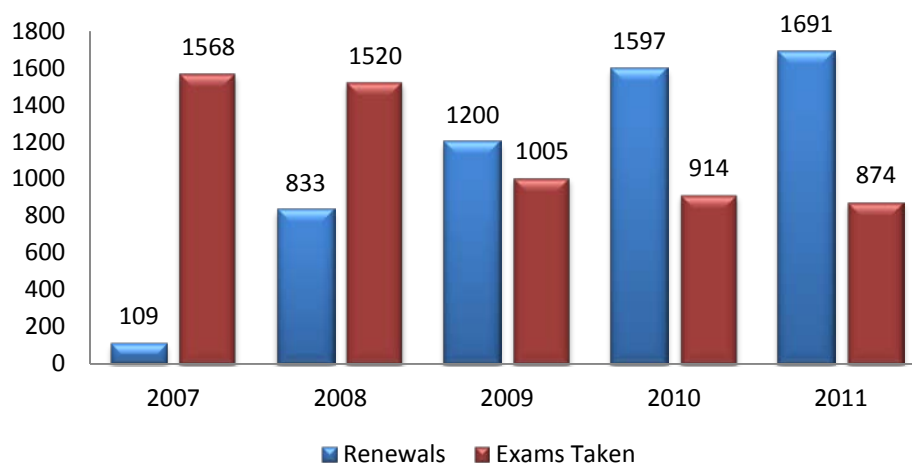
Year	# of Exams Taken	Number of Exams Passed	PASS Percent
2009	1005	652	64.8 %
2010	914	638	69.8 %
2011	874	607	69.5 %

Credential Maintenance

The certification program began allowing operators to use Continuing Education Hours to maintain their credentials on October 1, 2006. The table below shows the number of new certificates issued annually is declining slightly and credentials maintained using Continuing Education Hours is increasing.

Year	Credentials Renewed	New Certificates (Exams Passed)
2006	0	943
2007	109	729
2008	833	634
2009	1,200	652
2010	1,597	638
2011	1,691	607
Totals	5,430	4,203

Certification Credentials



Certified Operator Population

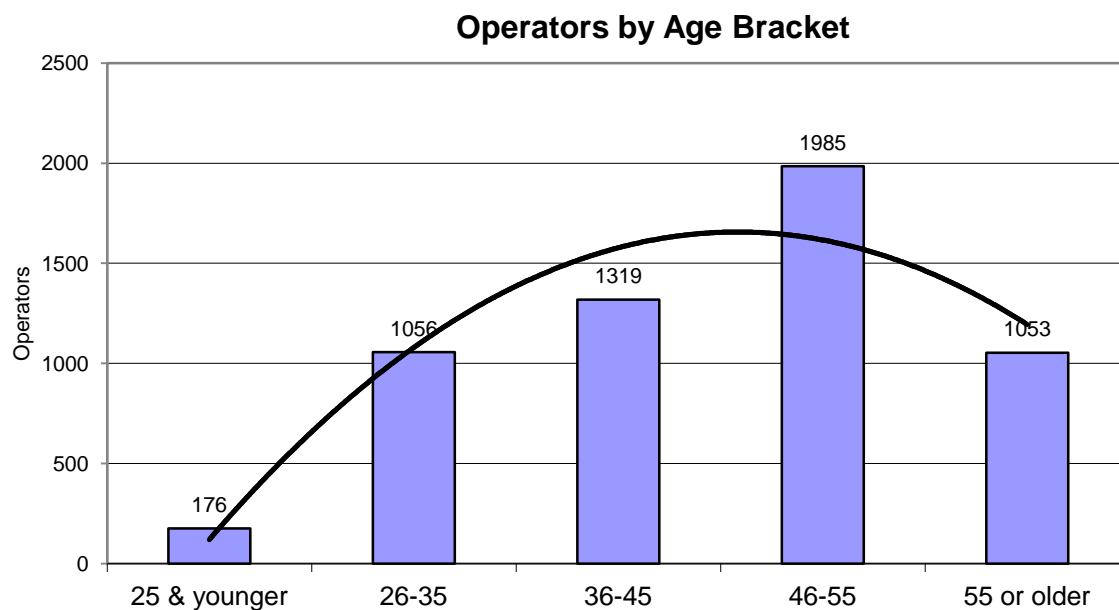
The total number of certified system operators with active credentials is 6,247. The population has appeared to stabilize since the collection of data in 2009.

System Operator Demographics

Approximately 6,079 system operators have provided demographic information since data collection began in early 2009. After three full years of data collection, NERC expects to have captured the majority of the system operator population. This information combines system operators taking their initial exams with those who renewed their credentials through continuing education.

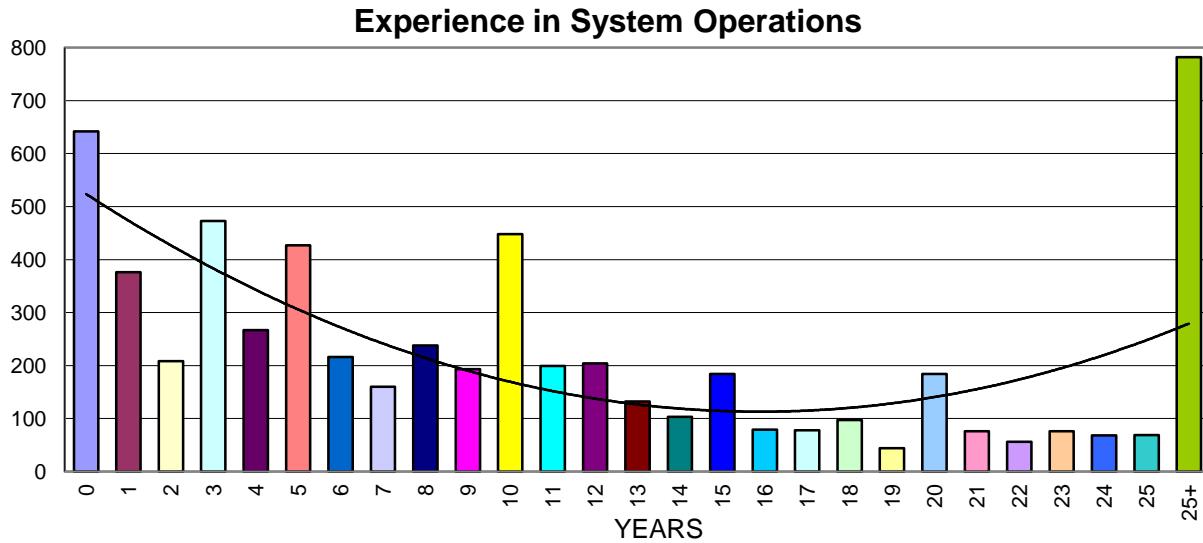
The following charts show current trends that are obtained from the demographics collected. Examples are included in Charts 1, 2, and 3, which provide preliminary metrics for average age of system operators, experience in system operations, and years in current position.

Chart 1 – Operator Population Age



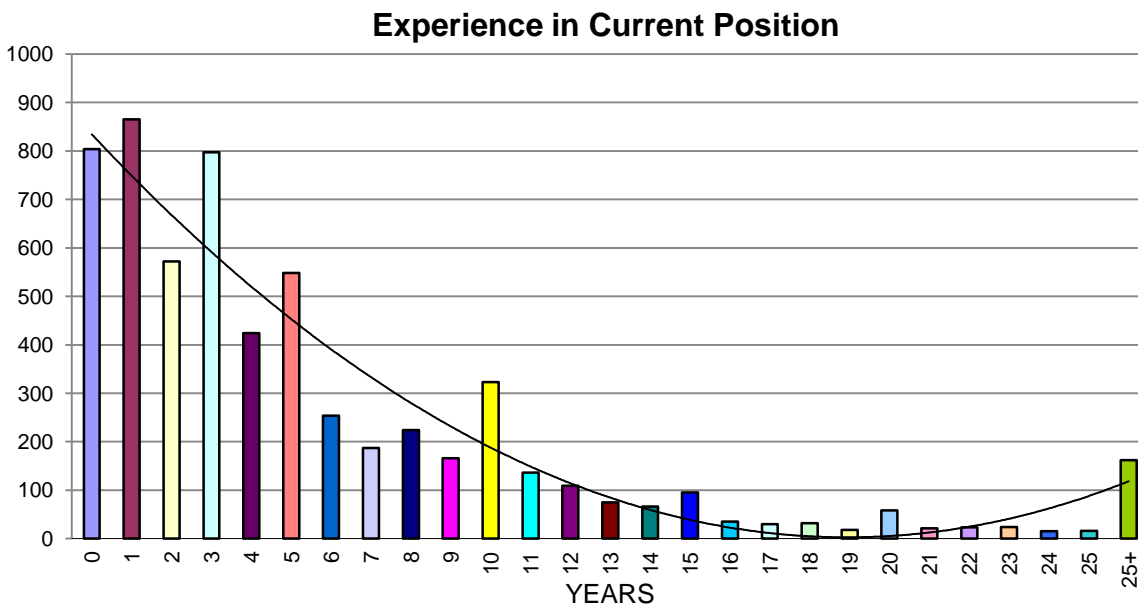
Note: 54 percent of system operators are over 45 years old. The largest age bracket for system operators is the 46-55 age bracket.

Chart 2 – Experience in System Operations



Approximately 60 percent of the certified system operators have 10 years or less experience in system operations. The average experience is 11.0 years.

Chart 3 - Experience in Position



This chart indicates that 66 percent of system operators have five years or less experience in their current position with 50 percent of the population having three years or less experience performing their current position.

Standards Committee (SC) Report

Action

None

Background

This report highlights some of the key activities of the SC in support of ERO Enterprise goals. The SC meets monthly and its meetings minutes are posted at <http://www.nerc.com/filez/scmin.html>.

Major Accomplishments for 2011

The three standards projects that were completed in 2011 expected to have the greatest impact on bulk power system reliability are:

- Definition of Bulk Electric System (BES)
- TPL-001-2 – Transmission System Planning Performance Requirements
- CIP-002-4 – Cyber Security — Critical Cyber Asset Identification

Major Tasks for 2012

- **Revisions to Standards Process**

The SC will identify changes to the standard development process that would result in developing a standard in a shorter period of time without adversely impacting either the technical quality of the standards or jeopardizing ANSI's accreditation of the NERC standards development process.

- Aggressively pursue high priority standards associated with topics most critical to bulk power system reliability:
 - Protection systems (PRC-001, PRC-005, PRC-019, PRC-024)
 - Real-time system operator communications (COM-002, COM-003)
 - Cyber-security (CIP-002 through CIP-011)
 - Frequency response (BAL-003)
 - Continue refinement of the Definition of BES through Phase 2 as a High Priority project

Standards Committee Strategic Plan's Linkages to NERC Strategic Plan to Improve Reliability

- ***Initiatives linked to the ERO Goal 1: The ERO will have clear, results-based reliability standards that provide for an adequate level of bulk power system reliability.***
 - Conduct a root cause analysis to identify why standard development doesn't move more rapidly; use results to revise the standard development process for improved efficiency.
 - Improve application, monitoring, and communication of the results based standards process.
 - Pursue modifications to the standard elements and template including possible removal of compliance elements and closer alignment between measures and reliability standard audit worksheets.
 - Complete proposals for revising the criteria for setting violation risk factors and violation severity levels.
 - Collect audit observations as input to standards development.
- ***Initiatives linked to ERO Goal 2: Bulk power system owners, operators, and users will demonstrate sustained cultures of learning and reliability excellence, built upon underlying foundations of compliance and effective risk management and mitigation.***
 - Continue to pursue methods of assessing the cost effectiveness of proposed reliability standards; pursue as a tool in support of risk management and risk mitigation.
 - Support development of an ERO enterprise-wide process for responding to/taking proactive action for protection of the bulk power system from high impact low frequency events and other emerging issues.
- ***Initiatives linked to ERO Goal 3: The ERO will develop and maintain effective reliability performance measures and will continue to develop high quality reliability assessments based on long range and seasonal forecasts, as well as emerging issues.***
 - Integrate the results of the ALRTF into standards development.
- ***Initiatives linked to ERO Goal 4: Bulk power system owners, operators, and users will effectively manage risks from cyber and physical attacks and other high-impact, low-frequency events.***
 - Complete CIP Version 5 standards.
- ***Initiatives linked to ERO Goal 7: The ERO will maintain an exceptional reputation as the trusted leader of the reliability community and instill a high degree of confidence in the reliability of the bulk power system.***
 - Support development of an ERO enterprise-wide process for responding to emerging issues, which may include development of new or revised reliability standards.
 - Continue to provide guidance on effective participation in the standard development process.
 - When initiating a new standard project, identify whether the intent is to "raise the bar" or improve "clarity" of existing requirements.

- Develop a “maturity model” for standards where successive versions of standards are more performance-based and less prescriptive.
- Improve transparency to stakeholders of FERC staff guidance provided to drafting teams.

If members of the Board of Trustees have questions or need additional information, they may contact Herb Schrayshuen at herb.schrayshuen@nerc.net or Allen Mosher at amosher@publicpower.org.

Compliance and Certification Committee (CCC) FYdcfh

Action

Approve Public Version of the 2011 ERO Effectiveness and Stakeholders' Perception Survey and the CCC 2012 Work Plan.

Background

This report provides a summary of the three major accomplishments achieved in 2011 by the CCC and its associated subgroups in support of the NERC mission and goals and CCC Charter; identifies three major actions or tasks or both anticipated for 2012; and presents the summary of the CCC strategic plan

2011 Major Accomplishments

1. Compliance Monitoring and Enforcement and Standards Development Monitoring
 - The CCC conducted a spot check on NERC with respect to Reliability Standards applicable to NERC. (Report submitted by separate transmittal)
 - The CCC conducted a spot check on NERC with respect to its Compliance Monitoring and Enforcement Program (CMEP). (Report submitted by separate transmittal)
 - The CCC conducted the 2011 ERO Effectiveness and Stakeholders Perception Survey. (Report submitted by separate transmittal)
 - The CCC coordinated the NERC Self Certifications related to NERC 2010 activities listed below:
 - Compliance and Enforcement Program
 - Organization, Registration and Certification Program
 - Standards Development Program
 - Reliability Standards applicable to NERC
2. **Quality Reviews of Reliability Standards Under Development**

The CCC assisted in the Reliability Development process by participating in the quality reviews of 45 standards.
3. **Risk-based Compliance**

The Risk-based Compliance Working Group developed recommendations associated with the risk-based aspects of complying with standards that supported NERC activities such as the find, fix, report, and track process. This group further developed the concepts identified in Tom Burgess' white paper on risk-based compliance. Additional CCC activities are to be forthcoming on this subject.

Major Actions for 2012

1. CCC Compliance Monitoring Programs

Work with the NERC Board's FAC Risk Management and Internal Controls Committee in developing an internal risk management program which coordinates the efforts of the CCC resources, NERC's internal risk management and auditing resources and external auditing resources.

2. Risked-based Reliability Compliance

To fulfill its mission, the CCC has established the Risk-based Reliability Compliance (RBRC) Working Group to perform the following on behalf of and under the supervision of the CCC:

- Monitor the implementation of NERC's Risk-based Reliability Compliance initiatives, as outlined in Section E.2 of the RBRCWG's Deliverable to the CCC dated August 26, 2011. This includes NERC initiatives to:
 - Focus on key reliability requirements shown to have a high impact on the reliability of the bulk electric system (BES)
 - Implement tiered layers of proportional enforcement
 - Encourage and recognize registered entity efforts to address low-level, low-risk conditions internally by focusing on the effectiveness of these efforts
 - Dedicate enforcement and investigative resources to those incidents that clearly pose a high-risk impact on the BES or reveal a severe level of reliability standard violation
 - Work with NERC staff, Regional Entity staffs and industry stakeholders in developing a Risk Profile program which will be used in evaluating Registered Entities Culture of Compliance.
 - Periodically report to the CCC on NERC's progress towards achieving the above items.

3. Reliability Standards Quality Reviews and Compliance Application Notices (CANs) Prioritization and Input

Continue assisting the NERC Standards Development staff in performing Reliability Standards Quality Reviews and to assist in the prioritization of (CANs) development activities as well as provide input to the actual language to be included in the CANs.

NERC Strategic Plan and CCC Strategic Plan Coordination

Background

This section outlines the NERC CCC plan to support NERC's long-term strategic goals. The long-term objectives were developed jointly with NERC staff with input from the other NERC Standing Committees. It is based upon [NERC's Strategic Goals and its President's Top Priorities](#). This plan will be updated annually as part of the CCC's annual work plan efforts.

NERC Goal 1:

The ERO will have clear, results-based reliability standards that provide for an adequate level of reliability.

NERC Subgoal e. Develop a program to allow compliance trials following NERC Board approval of reliability standards, for the purpose of allowing industry to come into compliance and mitigate compliance risk while the ERO validates compliance measures and procedures, minimizing inefficiencies and detrimental effects of learning through enforcement.

CCC Support (SIS Lead)

- CCC members offer to assist on ad hoc team, developing compliance trials process (2012).
- Provide input on criteria for compliance trials (2012).
- Review outcomes and effectiveness of compliance trials (2013).
- Provide input on how standard was interpreted by auditors during the trials process (2013).
- Assist in updating process based on lessons-learned (2013).

NERC Goal 2:

Bulk power system owners, operators, and users will be demonstrating sustained cultures of learning and reliability excellence, building upon underlying foundations of compliance and effective risk management.

NERC Subgoal m. Educate industry on effective compliance programs and effective reliability risk controls.

CCC Support (Risk-based Reliability Compliance Working Group is lead)

- Provide volunteers to assist in development of training materials and criteria on what constitutes an effective compliance program.
- Review and comment on criteria and workshop materials.
- Offer assistance to NERC for workshop.

NERC Goal 5:

The ERO will balance the roles of being a trusted enforcement authority, while providing owners, operators and users timely and transparent feedback on compliance and effective incentives for improving reliability.

NERC Subgoal a. Develop further enhancements to achieve efficient and timely enforcement compliance outcomes, including streamlined procedures for minor administrative violations, and improved workflow and tools at NERC and regional entities; target minor violations within three months and major cases within one year of discovery.

CCC Support

- Provide comments and suggestions on procedures used for streamlined enforcement.

NERC Subgoal b. Enhance compliance transparency through issuance of compliance application notices, case notes, and other information that would assist registered entities in more effectively managing compliance risk.

CCC Support

- Provide policy input on CAN development process.
- Assist in setting priorities for CAN development Procedure Subcommittee (PROCS).
- Assist in quality reviews of CANs prior to issuance Standards Interface Subcommittee (SIS).
- Obtain feedback on CAN process from industry as part of ERO Monitoring Subcommittee (EROMS) survey.

NERC Subgoal b. Enhance compliance transparency through issuance of compliance application notices, case notes, and other information that would assist registered entities in more effectively managing compliance risk.

CCC Support

- Provide comments and suggestions on procedures used for streamlined enforcement, particularly on the front end (Registered Entity interface) of the process.

NERC Subgoal d. Achieve greater consistency across the ERO in the determination of violations and exercise of discretion in setting penalties and sanctions through a defined framework and training of applicable staff personnel.

CCC Support

- Review defined framework at NERC's request and provide feedback.
- Review training material at NERC's request and provide feedback.

NERC Subgoal e. Ensure timely and thorough mitigation of all violations of mandatory reliability standards.

CCC Support

- Note: The CCC did develop some metrics on mitigation plan processing that could assist in the evaluation of process issues.
- Provide assistance in evaluating process trends and recommending improvements.
- EROMS to include questions of interest to NERC in annual survey.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

CCC Support (ORCS Lead)

Two items for consideration:

- GO/GOP registration as TO/TOP – ongoing work to provide a tailored set of standards and requirements to cover the reliability gaps but not be a burden on GO/GOP entities
- LSE / DP have a similar issue
 - Provide input on changes
 - Implement ROP changes to registration criteria

CCC Support (ORCS)

- Provide input on plan to address gaps (and overlaps) and risks.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

CCC Support (SIS)

- Provide input on website improvements to assist industry to find compliance-related information on the NERC website.

- Assist in ad hoc team with a goal of defining a standards database that lets a registered entity find each requirement applicable to them and ties together all compliance-related information (compliance information, measure, RSAW, applicable CANs, Case Notes, etc).

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

CCC Support (ORCS)

- Provide input on changes.
- Work with NERC to develop and implement Rules of Procedure changes needed to support goal.

NERC Goal 6.

NERC and the regional entities will execute statutory functions in a collaborative enterprise, and thereby achieve efficiencies and effective process controls while leveraging the expertise of staff and stakeholder resources.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

CCC Support (EROMS)

- Provide guidance on those items under the CCC purview (Standards Development Process, CMEP, and Standards Applicable to NERC).
- Coordinate with ERO Internal Audit on annual review, spot checks, etc.

NERC Goal 7

The ERO will maintain an exceptional reputation as the trusted leader of the reliability community and instill a high degree of confidence in the reliability of the bulk power system.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

CCC Support (EROMS)

- Coordinate with annual stakeholder perception survey.

Compliance and Certification Committee (CCC) Action Items

Action

Approve the CCC 2012 Work Plan, the 2012 Stakeholder Perceptions Survey, the NERC spot check of the Compliance Monitoring and Enforcement Program (CMEP) Report, and the NERC spot check of the standards applicable to NERC report.

Background

CCC 2012 Work Plan

The purpose of this plan is to identify the anticipated activities of the NERC CCC for the year 2012 and beyond. The plan is based on the responsibilities assigned to the CCC by the NERC Board of Trustees (BOT) through programs and tasks identified by the CCC required to accomplish these responsibilities. The work plan was approved by electronic vote on January 9, 2012.

2012 Stakeholder Perceptions Survey

The Board approved Charter of the CCC requires that the CCC, "Provide comments to NERC with respect to stakeholders' perception of the policies, practices and effectiveness of the Compliance, Registration, and Certification programs."

In support of the charter, the CCC submits this survey report detailing the results of the survey that was sent to the Primary Compliance Contacts of each registered entity in August of 2011.

NERC Spot Check of the Standards Applicable to NERC Report

The BOT approved CCC-PP-001, Monitoring Program for NERC's Adherence to NERC's Rules of Procedure (ROP) for Compliance Enforcement, states that the CCC may from time to time request NERC to provide information to assess whether NERC complies with the ROP.

The CCC submits the NERC spot check of the standards applicable to NERC report detailing the results of NERC's adherence to the following standards for 2011:

- COM-001-1.1
- CIP-002-3
- CIP-003-3

NERC Spot Check of the CMEP Report

The CCC also submits the NERC Spot Check of the CMEP report detailing the results of NERC's adherence to the ROP Appendix 4C CMEP Sections 5.0 and 6.0. The spot check team reviewed evidence of violation and mitigation plan details provided by the Regional Entities and NERC, including violation and settlement history, communications, and procedures.

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NERC Compliance and Certification Committee

2012 Work Plan and Long Term Objectives

January 9, 2012

RELIABILITY | ACCOUNTABILITY



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NERC Compliance and Certification Committee		
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Summary:

The Compliance and Certification Committee (CCC) is a NERC Board-appointed stakeholder committee serving and reporting directly to the NERC Board of Trustees (BOT) and is responsible for engaging with, supporting, and advising the NERC BOT and NERC regarding all facets of the NERC Compliance Monitoring and Enforcement Program (Compliance program), Organization Registration Program (Registration program), and Organization Certification Program (Certification program). In order to support this endeavor, the CCC has developed this annual work plan to identify the activities that the CCC intends to perform in 2012 to achieve the responsibilities that the NERC Board has instructed and desires the CCC to accomplish.

The long term objectives were developed jointly with NERC staff with input from the other NERC Standing Committees. It is based on [*NERC's Strategic Goals and its President's Top Priorities*](#).

Revision History:

Date	Version Number	Comments
12/1/2011	1.0	Initial Draft
1/9/2012	1.1	CCC Balloted Version

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Purpose

The purpose of this plan is to identify the anticipated activities of the NERC Compliance and Certification Committee (CCC) for the year 2012 and beyond. The plan is based on the responsibilities assigned to the CCC by the NERC Board of Trustees (BOT) through programs and tasks identified by the CCC required to accomplish these responsibilities.

Introduction

In the capacity of a NERC board-appointed stakeholder committee serving and reporting directly to the NERC Board under a NERC Board-approved charter and as set forth in NERC's Rules of Procedure (ROP), the CCC will engage with, support, and advise the NERC Board and NERC BOT Compliance Committee regarding all facets of the NERC Compliance Monitoring and Enforcement Program (Compliance program), Organization Registration Program (Registration program) and Organization Certification Program (Certification program). As a committee providing support and advice but otherwise independent of the execution of these programs, the CCC will monitor NERC's compliance with the ROP for these programs on an ongoing basis. In a similar manner, as a committee independent of the NERC Reliability Standards development process, the CCC will be the body responsible for monitoring NERC's compliance with the ROP regarding the NERC Reliability Standards development process.

The CCC provides for balanced discussion, commentary, and recommendations on compliance issues by bringing together a wide diversity of opinions and perspectives from NERC member sector experts who have particular familiarity, knowledge, and experience in the area of compliance and NERC and Regional standards. Members are appointed to the CCC by the NERC Board and serve on the committee at the pleasure of the Board.

Individuals deemed qualified to serve on the committee will generally include senior level industry experts who have particular familiarity, knowledge, and experience in the area of compliance, compliance enforcement, compliance administration and management, organization responsibilities and registration, organization certification, and NERC and Regional standards.

These individuals should be involved with internal compliance programs within their respective organizations. Committee members are expected to represent the interests of the sector they represent, to the best of their ability and judgment.

CCC Organization

In addition to certain core responsibilities, the CCC has established subcommittees and a working group to perform certain tasks on behalf of and under the supervision of the CCC. Key responsibilities of these subcommittees are outlined below.

Organization Registration and Certification Subcommittee (ORCS)

To fulfill its mission, the CCC has established the Organization Registration and Certification Subcommittee to perform the following tasks on behalf of and under the supervision of the CCC:

- Advise and provide support to NERC and the Regional Entities with development and implementation of organization registration and certification processes (i.e., ROP 500 & Appendix 5);
- Advise and provide ongoing support to NERC and the Regional Entities relating to approved organization registration and certification processes;
- Evaluate the success and effectiveness of NERC and the Regional Entities' administration of the organization registration and certification processes; and
- Establish programs to monitor NERC's and the Regional Entities' implementation of the organization registration and certification processes.

Standards Interface Subcommittee (SIS)

To fulfill its mission, the CCC has established the Standards Interface Subcommittee to perform the following tasks on behalf of and under the supervision of the CCC:

- Advise and prepare recommendations to the CCC to address any standard-related issues relevant to and within the scope of the NERC CCC (i.e., request from the Standards Committee, Standards Drafting Team, CCC, NERC Compliance Staff, etc);
- Act as liaison of the CCC to the NERC Standards Committee;
- Implement CCC oversight, facilitate, and participate as needed in the development of the Compliance Administration Elements (CAEs) for new reliability standards under development or for revisions to existing reliability standards;
- Identify personnel to serve on the CAE drafting teams as needed; and
- Prepare and maintain guidance and other related documents and materials for the benefit of Standards Drafting Teams regarding the development of CAEs.
- Coordinate the CCC quality review responsibilities as established in the Standards Process Manual.

ERO Monitoring Subcommittee (EROMS)

To fulfill its mission, the CCC has established the ERO Monitoring Subcommittee to perform the following tasks on behalf of and under the supervision of the CCC:

- Establish and implement programs to monitor NERC's compliance with the reliability standards that apply to NERC;
- Establish and implement programs to monitor NERC's adherence to the ROP regarding the Compliance Monitoring and Enforcement Program as specified in Section 405 of NERC's ROP;
- Establish and implement programs to monitor NERC's adherence to the ROP regarding the reliability standards development process with the exception of appeals of substantive or procedural action or inaction associated with a reliability standard or the standards process as defined in the appeals section of the NERC Standards Processes Manual as specified in Section 405 of NERC's ROP; and
- Develop criteria for use by NERC for the annual evaluation of the goals, tools, and procedures of each Regional Entity compliance enforcement program in the determination of the effectiveness of each Regional Entity program as specified in Section 402.1.2 of NERC's ROP.
- Develop and implement methods to actively solicit information with respect to stakeholder perception of the procedures, policies, standards, rules, orders, etc., and the effectiveness of the NERC CMEP and Standards Development activities and provide this information to the CCC and applicable CCC subcommittees. Final report will be provided to the NERC Board.
- EROMS, in 2012, will work with NERC staff to implement the concepts included in the new *Risk Management and Internal Controls* document.

Procedures Subcommittee (PROCS)

- To fulfill its mission, the CCC has established the PROCS to perform the following tasks on behalf of and under the supervision of the CCC:
- Perform document review to promote consistency between multiple documents (procedures, policies, standards, rules, orders, etc.) that comprise the overall NERC Compliance Monitoring and Enforcement Program (CMEP) and to assure documents are clear, unambiguous, consistent and complementary;
- Advise the CCC of any such unclear, ambiguous, or inconsistent portions of the CMEP documents and propose changes to the documents that it believes will clarify an unclear, ambiguous, or inconsistent situation;
- Develop and maintain CCC operational procedures with respect to the CCC responsibilities under the CCC Charter.

CCC Nominating Committee

- The CCC annually appoints a Nominating Subcommittee. The subcommittee consists of five members nominated by the committee chair and approved by the committee. The chair of the subcommittee will be selected by the CCC chair from among the five subcommittee members. Members of the Nominating Subcommittee prepare a slate of committee officer candidates for submission to the NERC Board for approval and prepare a slate of recommended individuals to fill designated committee vacancies as required.
- For the year 2012, the Nominating Committee will continue to identify qualified candidates to submit to the NERC Board for approval for those industry sections that require representation.

Risk-Based Reliability Compliance Working Group

The Risk-based Reliability Compliance (RBRC) Working Group was established by the CCC in 2011 to support NERC's initiatives related to implementing the concepts of risk-based reliability compliance. In line with this responsibility, the RBRC WG developed and submitted to the CCC and NERC a deliverable in August 2011 that endorsed NERC's progress in focusing the 2012 CMEP on those standards with a higher potential impact on reliability while at the same time reducing the overall scope of the standard requirements to be monitored in 2012. In addition, the RBRC WG endorsed streamlining the enforcement process to reduce the effort expended on minor violations that present minimal risk to the reliability of the BPS. NERC's filing with FERC on September 30, 2011 included the Find, Fix, Track (FFT) process that reflected the Working Group's suggestions.

In 2012, the Working Group will continue to work with the CCC, industry constituents and NERC to monitor the implementation of the FFT process and suggest enhancements where appropriate. In addition, the Working Group will develop a template with components and possible criteria that can be used by NERC and the Regions to conduct entity assessments. These assessments should produce results based on both objective and subjective criteria that can be used to establish a basis for appropriately scoping compliance monitoring for registered entities.

Key Responsibilities Not Assigned to Subcommittees

In addition to tasks assigned to subcommittees on behalf of and under the supervision of the CCC, the overall committee, in general caucus, will continue to address certain key responsibilities. These responsibilities include but are not limited to:

- Provide comments to NERC with respect to stakeholders' perception of the policies, practices, consistency, and effectiveness of the compliance, registration, and certification programs;
- Recommend revisions of the NERC ROP to the NERC Board, and provide comments to the NERC Board regarding the same when revisions are proposed by NERC personnel;
- Establish hearing bodies, as directed by the NERC Board, for any contest regarding findings of, or penalties or sanctions for, violation(s) of reliability standard(s) where

NERC is directly monitoring the entity for compliance with those standards (registered entity by agreement with a Regional Entity or absent a delegation agreement; the Region itself where approved standards are applicable to the Region) as described in the NERC ROP Section 409;

- Establish hearing bodies with respect to registered entities certification appeals,
- Serve as a mediator, as directed by the NERC Board, for any disagreements between NERC and the Regional Entities concerning NERC performance audits of Regional Entities' compliance programs;
- Participate in Regional Entity compliance program audits that are conducted at least once every five years for each Regional Entity.

CCC Programs

The CCC has established several programs to fulfill its obligations. These programs include specific monitoring activities such as periodic on-site audits and reviews, NERC self-certifications, CCC spot checks, CCC Adverse Finding Investigations, NERC self-reporting, Periodic Data Submittals, and CCC Review of Stakeholder Complaints. As resources allow, audits and spot checks may be conducted by independent contractors. The programs are described below.

CCCPP-001: Monitoring Program for NERC's Adherence to NERC's ROP

This program has been established so that the CCC can monitor NERC's adherence to its ROP. The NERC CCC EROMS will coordinate this effort.

CCCPP-002: Compliance Monitoring Program for Reliability Standards Applicable to NERC

This program has been established so that the CCC can monitor NERC's adherence to NERC Reliability Standards applicable to NERC. The CCC will use a variety of activities to perform the monitoring. The NERC CCC EROMS will coordinate this effort.

CCCPP-003: Monitoring Program for NERC's Standards Processes Manual

This program has been established so that the CCC can monitor NERC's adherence to its ROP concerning reliability standards development. The NERC CCC EROMS will coordinate this effort.

CCCPP-007: Monitoring Program for NERC's Adherence to NERC's ROP for Organization Registration and Certification

This program has been established so that the CCC can monitor NERC's adherence to its ROP for Organization Registration and Certification. The NERC CCC ORCS will coordinate this effort.

CCCPP-008: Program for Monitoring Stakeholders' Perceptions of NERC Compliance Program, Registration Program, and Certification Program

This program has been established so that the CCC can gather and report to the BOT stakeholder perceptions with respect to NERC's CMEP, Organization Registration Program and Certification Program and the way the programs are administered. The NERC CCC EROMS will coordinate this effort.

CCCPP-010: Program for Developing and Reviewing the Criteria for Regional Entity Audits and CMEP Compliance Audits.

This program has been established to identify the criteria by which these audits are conducted, provide a guidance letter to NERC regarding these criteria, and document the process for the CCC to annually review and affirm these for use. The NERC CCC EROMS will coordinate this effort.

2012 Activities for the CCC Programs

Self-Certifications

In accordance with CCCPP-001, the EROMS will review and modify (if necessary) the subset of performance items related to the ROP for the CMEP. The CCC will then request that NERC self-certify adherence to ROP for the CMEP with respect to the subset of performance items by providing the CCC with a report at its first regularly scheduled meeting in 2012.

In accordance with CCCPP-002, the EROMS will identify the reliability standards applicable to NERC. The CCC will then request that NERC self-certify adherence to the reliability standards applicable to NERC by providing the CCC with a report in 2012.

In accordance with CCCPP-003, the SIS will review and modify (if necessary) a subset of performance items related to the NERC Standards Processes Manual. The CCC will then request that NERC self-certify adherence to the NERC Standards Processes Manual with respect to the subset of performance items by providing the CCC in 2012.

In accordance with CCCPP-007, the ORCS will review and modify (if necessary) a subset of performance items related to the ROP for Organization and Registration. The CCC will then request that NERC self-certify adherence to the ROP for Organization Registration and Certification with respect to the subset of performance items by providing the CCC in 2012.

The four reports described above will be in the form of a presentation provided by a NERC officer or equivalent responsible for ensuring adherence to the above identified four elements of the ROP. The presentation will identify adherence to the rules as well as any areas of non-adherence. The CCC will include the results of the self-certifications in these four areas in a report to the Board.

Audits and Reviews

In accordance with CCCPP-001, the CCC will perform an audit and review of NERC's adherence with the ROP for Compliance Monitoring and Enforcement every three years. Additionally, an unscheduled audit and review may be initiated by the CCC if deemed necessary to determine NERC's adherence with the ROP for compliance enforcement. The audit or review team will develop a draft audit or review report, review it with NERC, make any necessary changes, and then prepare a final report to be submitted to the CCC. The CCC will review and assess the report and provide NERC a final copy. The CCC will advise the NERC Board of any adverse findings and include the results of the audit or review in the report to the Board. There is an independent audit scheduled in 2012. The CCC will provide input to these audit criteria and participate as an observer in this audit.

In accordance with CCCPP-002, the CCC will perform an audit or review of NERC's compliance with reliability standards applicable to NERC every three years. Additionally, an unscheduled audit or review may be initiated by the CCC if deemed necessary to determine NERC's compliance with reliability standards. The audit or review team will develop a draft audit or review report, review it with NERC, make any necessary changes, and then prepare a final

report to be submitted to the CCC. The CCC will review and assess the report and provide NERC a final copy. The CCC will advise the NERC Board of any alleged violations and include the results of the audit or review in the report to the Board. There is no audit or review scheduled for reliability standards in 2012.

In accordance with CCCPP-003, the CCC will perform an audit or review of NERC's adherence with the NERC Standards Processes Manual every three years. Additionally, an unscheduled audit or review may be initiated by the CCC if deemed necessary to determine NERC's adherence with the NERC Standards Processes Manual. The audit or review team will develop a draft review report, review it with NERC, make any necessary changes, and then prepare a final report to be submitted to the CCC. The CCC will review and assess the report and provide NERC a final copy. The CCC will advise the NERC Board of any preliminary adverse findings and include the results of the audit or review in the report to the Board. There is no audit or review scheduled for reliability standards development in 2012.

In accordance with CCCPP-007, the CCC will perform an audit or review of NERC's adherence with ROP for Organization Registration and Certification every three years. Additionally, an unscheduled audit or review may be initiated by the CCC if deemed necessary to determine NERC's adherence with the ROP for Organization Registration and Certification. The audit or review team will develop a draft review report, review it with NERC, make any necessary changes, and then prepare a final report to be submitted to the CCC. The CCC will review and assess the report and provide NERC a final copy. The CCC will advise the NERC Board of any alleged adverse findings and include the results of the audit or review in the report to the Board. There is an independent audit scheduled in 2012. The CCC will provide input to these audit criteria and participate as an observer in this audit Investigations.

In accordance with CCCPP-001, the CCC may initiate an adverse finding investigation at any time as directed by the BOT or based on an event, complaint, or other possible adverse finding identified by any other means. Adverse finding investigations will follow the processes outlined in a Compliance Program Audit.

In accordance with CCCPP-002, the CCC may initiate a Reliability Standard Compliance Violation Investigation at any time as directed by the BOT or based on an event, complaint, or other possible violation of a reliability standard identified by any other means. Reliability Compliance Violation Investigations will follow the processes outlined in a Compliance Program Audit.

In accordance with CCCPP-003, the CCC may initiate a Standards Development Process Review Investigation at any time as directed by the BOT or in response to a complaint or evidence that NERC has not adhered to the Standards Development Process Procedures. Standards Development Process Review Investigations will follow the processes outlined for a Standards Development Process Review.

In accordance with CCCPP-007, the CCC may initiate an Organization Registration and Certification Investigation as directed by the BOT or at any time in response to a complaint or evidence that NERC has not adhered to the ROP for Organization Registration and Certification. Adverse finding investigations will follow the processes outlined for a Registration and Certification Program Audit.

Spot-Checks

In accordance with CCCPP-001, the CCC may from time to time perform spot checks to determine whether NERC is adhering or has adhered to the ROP for Compliance Enforcement. Spot checking may also be initiated in response to a directive from the BOT or to events or a complaint. Results of spot checks will be provided to NERC and will be reported to the NERC Board.

In accordance with CCCPP-002, the CCC may from time to time perform spot checks to determine whether NERC has complied or is complying with the reliability standards applicable to NERC. Spot checking may also be initiated in response to events or a complaint. Results of spot checks will be provided to NERC and will be reported to the NERC Board.

In accordance with CCCPP-003, the CCC may from time to time perform spot checks to determine whether NERC is adhering or has adhered to the reliability standards development process. Spot checking may also be initiated in response to a directive from the BOT or to events or a complaint. Results of spot checks will be provided to NERC and will be reported to the NERC Board.

In accordance with CCCPP-007, the CCC may from time to time perform spot checks to determine whether NERC is adhering or has adhered to the ROP for Organization Registration and Certification. Spot checking may also be initiated in response to a directive from the BOT or to events or a complaint. Results of spot checks will be provided to NERC and will be reported to the NERC Board.

Currently, there are no spot checks scheduled for 2012. The need for CCC spot checks will be determined at the discretion of the CCC and may be conducted through information requests or on-site visits.

NERC Audits of Regional Entities

A CCC member will participate in each audit of a Regional Entity by NERC. The PROC has developed **CCCPP-010 – Process for Developing and Reviewing the Criteria for Annual Regional Entity Audits and CMEP Compliance Audits**. The deliverables from the implementation of this program identify the criteria by which these audits are to be conducted, a guidance letter to NERC regarding these criteria, and documentation on the process for the CCC to annually review and affirm these for use. These criteria are extracted from the underlying assumptions contained in the Compliance Process Audit Worksheets applicable to these types of audits and other materials.

Monitoring Stakeholder Perceptions

As stated in the CCC Charter in Section 3, committee members are expected to represent the interests of the sector they represent, to the best of their ability and judgment. Members are expected to solicit comments and opinions from constituents and groups of constituents or trade organizations represented by the member and convey them to the CCC. During 2012, committee members will participate in documenting comments to the CCC, with respect to stakeholders' perception of the policies, practices and effectiveness of the CMEP, Registration Program, and Certification Program. The EROMS will lead, direct, and initiate these reviews and surveys of CCC members and provide recommendations for consideration to NERC.

The CCC has developed the **Program for Monitoring Stakeholders' Perceptions of NERC CMEP, Registration Program, and Certification Program**. An element of this program expected to be carried out in 2012, in addition to obtaining direct feedback from committee members, will include conducting surveys of stakeholders in the second half of the year. Depending upon the level and nature of the feedback gathered, additional elements of the program may include seeking stakeholder feedback in a CCC-sponsored segment contemporaneous with Regional Entity Compliance Workshops or in conjunction with existing stakeholder compliance working groups. Part of the communication provided in advance would include the explanation of the roles and functions of the CCC, the survey elements being considered, and the manner for providing a feedback report to the BOT and the stakeholders. Additional methods of communicating with stakeholders may include providing information regarding the survey in NERC News and direct e-mails to stakeholders.

An important element of the program will be an annual report, presented to the CCC for approval to forward to NERC, the BOT, and the stakeholders, as well as quarterly stakeholder perceptions reports to the CCC.

Longer term activities, beyond 2012, may include mechanisms for the CCC to directly receive feedback from stakeholders following audits and any of the other effectiveness monitoring inputs or evaluations surrounding the effectiveness metrics endorsed in CCCPP-008.

CCC Projects and Subcommittee Activities

Global CCC Projects and Activities

- CCC Member Audit Training
- CCC Member Hearing Training
- Perform a (ongoing) Self Assessment
- Develop a 2013 Annual Work Plan by October 2012
- Review and act (if appropriate) upon reports and recommendations provided by NERC and its other Standing Committees.
- Review and comment on FERC and NERC requests for information and comments

ORCS Activities

- Review ROP for improvements to the NERC Organization Registration and Organization Certification activities.
- Monitor the Bulk Electric System Definition project to determine if any modifications to Section 500 and the Statement of Compliance Registry Criteria are needed.

EROMS Activities

- Implement the program for Monitoring Stakeholders' Perceptions of the NERC Compliance Program, Registration Program, and Certification Program.
- Review and summarize information received from stakeholders.
- Solicit survey input from the CCC members.
- Develop reports for the CCC.
- Implement surveys, webinars, and conduct workshops as appropriate.
- Review the Self Certifications for (1) Reliability Standards applicable to NERC (2) the Compliance Enforcement Program (3) the Organization Registration and Certification Programs, and (4) the reliability standards development activities as set forth in the Standards Processes Manual as set forth in the ROP.
- Review the criteria for annual Regional Entity Evaluations and CMEP compliance audits in 2012. Modify program and criteria as necessary.
- Provide a guidance letter to NERC containing relevant criteria for the independent audit of the Organization Registration and Organization Certification Programs.

SIS Activities

- Coordinate Reliability Standards Quality Reviews on behalf of the CCC
- Review criteria for audit or review of NERC adherence to Standards Process Manual

- Undertake a Prioritization exercise on the existing list of pending Compliance Application Notices (CANs).
- Develop Quality Review criteria for CANs
- Coordinate CAN quality reviews based upon criteria.

PROCS Activities

- Continue to review and recommend comments for CCC on proposed changes to the ROP
- Review and format new CCC Programs as needed and as resources allow pending future changes to ROP
- Assist EROMs in the annual Regional Entity Audit Criteria work

Risk Based Reliability Compliance Working Group

- Monitor the implementation of the FFT process and suggest enhancements where appropriate.
- Develop a template with components and possible criteria that can be used by NERC and the Regions to conduct entity assessments.

Hearing and Mediation Responsibilities

The CCC will conduct hearings as necessary to fulfill its function of serving as the hearing body for any contest between NERC and a Regional Reliability Organization (RRO) or Regional Entity (RE) regarding NERC findings of or penalties or sanctions for violation(s) of reliability standard(s) by the RRO or RE as described in the NERC ROP Section 409.

Note: The CCC's hearing procedures follow the hearing procedures mandated and approved by jurisdictional authorities for use by NERC and the Regional Entities in the compliance program.

The CCC will conduct hearings as necessary to fulfill its function of serving as a hearing body for any registered entity appeal regarding the determination that a registered entity is not qualified to be certified to perform the functional activities that require certification by NERC.

Note: The Certification Appeal Hearing will be conducted on an expedited basis.

The CCC will conduct mediation activities when requested by the NERC Board.

The CCC hearing and mediation procedures are described in the documents identified below and have been approved by the Federal Energy Regulatory Commission:

- CCCPP-004: CCC Hearing Procedures
- CCCPP-005: CCC Hearing Procedures for Use in Appeals of Certification Matters
- CCCPP-006: CCC Mediation Procedures

Meetings (2012)

CCC quarterly meetings (dates and locations tentative)

- March 14-15, 2012, Atlanta, GA
- June 20-21, 2012, Montreal, Canada
- September 5-6, 2012, Atlanta, GA
- December 5-6, 2012, Austin, TX

CCC Subcommittees meet as needed. At a minimum, subcommittees meet the morning of the first day of CCC meetings.

NERC Board of Trustee Assignments

The CCC undertakes assignments from the NERC Board or the Board's Committees related to compliance, organization registration, and organization certification.

The primary Board assignment for 2012 is to work with NERC staff to internalize portions of the CCC's monitoring responsibilities as part of NERC's overall Risk Management Program.

Logistics and Budget Requirements for CCC Activities

Listed below are items identified by the CCC that NERC should take into account with respect to costs NERC will incur concerning CCC activities for 2012-2014.

CCC Quarterly Meetings

(Cost to be determined by NERC)

Assumptions: 4 CCC meetings per year,

NERC staff attendance

NERC travel expenses

Hotel (Conf Room and Food)

Hearings and Appeals

(Cost to be determined by NERC)

Assumptions: 1 hearing or appeal in 2012*

Administrative Law Judge's fee and travel expenses

Hearing refresher training

Transcription costs

Travel expenses

*CCC will notify NERC and NERC BOT if additional hearings are expected.

Mediation

(Cost to be determined by NERC)

Assumptions: No mediations expected, but noted here as a placeholder

Mediator fee and travel expenses

CCC Program Audits or Review

Assumptions:

Audit or Review Independent Contractor \$125,000 annually

Audit periodicity will increase as NERC internalizes monitoring capability, based upon recommendations of independent reviewer.

WebEx or Conference Calls

(Cost to be determined by NERC)

Assumptions: 3 CCC and Subcommittees NERC Web-Ex or conference calls quarterly

Stakeholder Perception Survey

(Cost to be determined by NERC)

Assumptions: The NERC BOT has expressed interest in hiring a professional survey firm to conduct the stakeholder perception survey. If contract is not in place by June 2012, the CCC's EROMS will conduct the survey.

Training

(Cost to be determined by NERC)

Assumptions:

Half day of hearing training appended to regular CCC meeting every even year.

5-10 CCC members to attend auditor training annually.

One day of quality review training each year for 15 CCC or subcommittee members each year.

CCC Long Term Objectives

Background

This section outlines the NERC Compliance and Certification Committee's (CCC) plan to support NERC's long term strategic goals. The long term objectives were developed jointly with NERC staff with input from the other NERC Standing Committees. It is based upon [NERC's Strategic Goals and its President's Top Priorities](#). This plan will be updated annually as part of the CCC's annual work plan efforts.

NERC Goal 1

The ERO will have clear, results-based reliability standards that provide for an adequate level of reliability.

NERC Subgoal e. Develop a program to allow compliance trials following NERC Board approval of reliability standards, for the purpose of allowing industry to come into compliance and mitigate compliance risk while the ERO validates compliance measures and procedures, minimizing inefficiencies and detrimental effects of learning through enforcement.

NERC 2012 Target. Working with CCC, SC, and other standing committees as appropriate, develop a plan and procedures for piloting a compliance trial period

NERC 2013 Target. Pilot a trial compliance period of one or more new or revised standards.

NERC 2014 Target. All substantive changes or new standards launched through a trial compliance period.

CCC Support (SIS Lead):

- CCC members offer to assist on ad hoc team, developing compliance trials process (2012).
- Provide input on criteria for compliance trials (2012).
- Review outcomes and effectiveness of compliance trials (2013).
- Provide input on how standard was interpreted by auditors during the trials process (2013).
- Assist in updating process based on lessons-learned (2013).

NERC Goal 2

Bulk power system owners, operators, and users will be demonstrating sustained cultures of learning and reliability excellence, building upon underlying foundations of compliance and effective risk management.

NERC Subgoal m. Educate industry on effective compliance programs and effective reliability risk controls.

2011 Target. "1 compliance workshop. Participation in 8 regional compliance workshops."

2012 Target. "1 compliance workshop and 3 quarterly webinars. Participation in 8 regional compliance workshops."

2013 Target. "1 compliance workshop and 3 quarterly webinars. Participation in 8 regional compliance workshops."

2014 Target. "1 compliance workshop and 3 quarterly webinars. Participation in 8 regional compliance workshops."

CCC Support (Risk Based Reliability Compliance Working Group Lead):

- Provide volunteers to assist in development of training materials and criteria on what constitutes an effective compliance program.
- Review and comment on criteria and workshop materials.
- Offer assistance to NERC for workshop.

NERC Goal 5

The ERO will balance the roles of being a trusted enforcement authority, while providing owners, operators and users timely and transparent feedback on compliance and effective incentives for improving reliability.

NERC Subgoal a. Develop further enhancements to achieve efficient and timely enforcement compliance outcomes, including streamlined procedures for minor administrative violations, and improved workflow and tools at NERC and regional entities; target minor violations within three months and major cases within one year of discovery.

2011 Target. "Administrative citations program operational and achieving 100 violations per month by midyear. Active caseload reduced to 24 months (total active cases divided by 6-month average closure rate per month is less than 24 months.)"

2012 Target. Active caseload reduced to 20 months.

2013 Target. Active caseload reduced to 16 months.

2014 Target. Active caseload reduced to 12 months.

CCC Support:

- Provide comments and suggestions on procedures used for streamlined enforcement.

NERC Subgoal b. Enhance compliance transparency through issuance of compliance application notices, case notes, and other information that would assist registered entities in more effectively managing compliance risk.

2011 Target. Issue compliance application notices, compliance bulletins and case notes.

2012 Target. Issue compliance application notices, compliance bulletins and case notes.

2013 Target. Issue compliance application notices, compliance bulletins and case notes.

2014 Target. Issue compliance application notices, compliance bulletins and case notes.

CCC Support:

- Provide policy input on CAN development process.
- Assist in setting priorities for CAN development (PROCS).
- Assist in quality reviews of CANs prior to issuance (SIS).
- Obtain feedback on CAN process from industry as part of EROMS survey.
- Provide comments and suggestions on procedures used for streamlined enforcement, particularly on the front of (registered entity interface) of the process.

NERC Subgoal d. Achieve greater consistency across the ERO in the determination of violations and exercise of discretion in setting penalties and sanctions through a defined framework and training of applicable staff personnel.

2011 Target. SIV tool implemented.

CCC Support:

- Review defined framework at NERC's request and provide feedback.
- Review training material at NERC's request and provide feedback.

NERC Subgoal e. Ensure timely and thorough mitigation of all violations of mandatory reliability standards.

2011 Target. Reduce mitigation verification timeline trend

2012 Target. Reduce mitigation verification timeline trend.

2013 Target. Reduce mitigation verification timeline trend.

CCC Support:

- Note: The CCC did develop some metrics on mitigation plan processing that could assist in the evaluation of process issues.

- Provide assistance in evaluating process trends and recommending improvements.
- EROMS to include questions of interest to NERC in annual survey

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

2011 Target.

2012 Target.

2013 Target.

CCC Support (ORCS Lead):

Two items for consideration:

- GO and GOP registration as TO and TOP – ongoing work to provide a tailored set of standards and requirements to cover the reliability gaps but not be a burden on GO and GOP entities
- LSEs and DPs have a similar issue
 - Provide input on changes.
 - Implement ROP changes to registration criteria.

CCC Support (ORCS):

- Provide input on plan to address gaps (and overlaps) and risks.

CCC Support (SIS):

- Provide input on website improvements to assist industry to find compliance-related information on the NERC website.
- Assist in ad hoc team with a goal of defining a standards database that lets a registered entity find each requirement applicable to them and ties together all compliance-related information (compliance information, measure, RSAW, applicable CAN, Case Notes, etc).

CCC Support (ORCS):

- Provide input on changes.
- Work with NERC to develop and implement ROP changes needed to support goal.

NERC Goal 6

NERC and the Regional Entities will execute statutory functions in a collaborative enterprise, and thereby achieve efficiencies and effective process controls while leveraging the expertise of staff and stakeholder resources.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

2011 Target.

2012 Target.

2013 Target.

CCC Support (EROMS):

- Provide guidance on those items under the CCC purview (Standards Development Process, CMEP, and Standards Applicable to NERC).
- Coordinate with ERO Internal Audit on annual review, spot checks, etc.

NERC Goal 7

The ERO will maintain an exceptional reputation as the trusted leader of the reliability community and instill a high degree of confidence in the reliability of the bulk power system.

NERC Subgoal f. Modify the registration program to be more efficient, risk-based, and aligned with reliability benefit, including evaluation of options such as increased granularity in registration by requirement or by assets for entities with limited impacts on bulk power system reliability.

2011 Target.

2012 Target.

2013 Target.

CCC Support (EROMS):

- Coordinate with annual stakeholder perception survey.

Other Long Term CCC Goals Not on NERC's Strategic Plan

This is a placeholder for future revisions if the CCC is given additional guidance from the NERC Board of Trustees or receives specific requests for support from NERC.

Electricity Sub-sector Coordinating Council (ESCC) Report

Action

None

Background

This report summarizes key activities of the ESCC in support of the NERC mission and corporate goals related to critical infrastructure. The ESCC consists of a NERC Board of Trustees member, NERC's CEO, five CEO-level executives appointed by the Member Representatives Committee, the chair of the NERC Critical Infrastructure Protection Committee (CIPC), and NERC's Director – Critical Infrastructure Protection. The ESCC fosters and facilitates the development of policy-related initiatives to improve the reliability and resilience of the electricity sector, including physical and cyber security. ESCC open meeting minutes are posted at:

<http://www.nerc.com/filez/escc.html>.

Recent ESCC Activities

Since the previous NERC Board of Trustees report, the ESCC held:

- An Open conference call on October 18, 2011
- A Closed conference call on November 15, 2011
- Open and Closed conference calls on January 17, 2012

Involvement in Cross-Sector and Government Partnership Initiatives

The ESCC discussed critical infrastructure initiatives involving NERC and the electricity industry with senior officials from the U.S. Department of Energy and Department of Homeland Security:

- The Energy Sector Public Private Partnership has been proposed by the U.S. government to review and address risks associated with energy supplies to critical military facilities.
- The Electricity Sector Cybersecurity Risk Management Maturity initiative has been proposed by the U.S. government with a goal to develop a model that measures cybersecurity risk management capabilities and will help entities decide appropriate cybersecurity investments.

NERC CIP Updates

The ESCC provided input and advice regarding a number of security-related initiatives:

- NERC's first-ever Security Summit, held on October 17-20, 2011, was attended by approximately 260 individuals.
- NERC's Grid Cybersecurity Exercise (GridEx), held on November 16-17, 2011, involved over 50 registered entities, most Regions, and representatives from government, industry associations, and academia.
- The DOE/NIST/NERC Risk Management Process Guideline is expected to be published by January 2012.

- A NERC Technical Workshop for industry leaders is being planned to review the status of the development and implementation of NERC's cybersecurity standards and consider alternatives for any future development.
- The ESCC anticipates reviewing and providing input to the Critical Infrastructure Protection Committee's Work Plan.

Monitoring Progress to Implement the ESCC's Strategic Roadmap

The ESCC continues to monitor the progress and issues associated with the Task Forces working to implement the *Coordinated Action Plan*. The Task Forces are nearing completion of their final reports and seek the endorsement of the Board of Trustees as described in the table below (the shaded areas indicate complete). The ESCC anticipates reviewing the many task force conclusions and recommendations for industry implementation.

Task Force or Initiative	Report to be Approved by	Request Comments on Draft	Receive Comments on Draft	ESCC Review	Technical Committees Approve Final	MRC and Board of Trustees Review
Geomagnetic Disturbance	OC and PC	Dec 2, 2011	Jan 6, 2012	Feb 1, 2012	Feb 1, 2012	Feb 22, 2012
Spare Equipment Database	PC (with OC and CIPC endorsement)	Jun 1, 2011	Jun 29, 2011	Oct 3, 2011	Sep 13-15, 2011	Nov 2-3, 2011
Cyber Attack	CIPC (with OC endorsement)	Oct 15, 2011	Feb 8, 2012	Mid-Feb 2012	Mar 8, 2012	May 9, 2012 latest
Severe Impact Resilience	OC (with PC endorsement)	Dec 13-15, 2011	Jan 4, 2012	Feb 6, 2012	Feb 2012	Mar 2012 ?
NERC Crisis Plan	NERC CEO	-	-	Aug 16, 2011	Not Required	Not Required

Future ESCC Meetings

Thursday	March 15, 2012	8:00 am – 2:00 pm	CLOSED All day in-person meeting, Washington DC
		2:00 pm – 3:00 pm	OPEN conference call
Tuesday	April 17, 2012	2:00 pm – 3:00 pm	OPEN conference call
Tuesday	July 17, 2012	2:00 pm – 4:00 pm	CLOSED conference call
Thursday	September 27, 2012	8:00 am – 2:00 pm	CLOSED All day in-person meeting, Washington DC
		2:00 pm – 3:00 pm	OPEN conference call
Tuesday	November 27, 2012	2:00 pm – 4:00 pm	CLOSED conference call

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

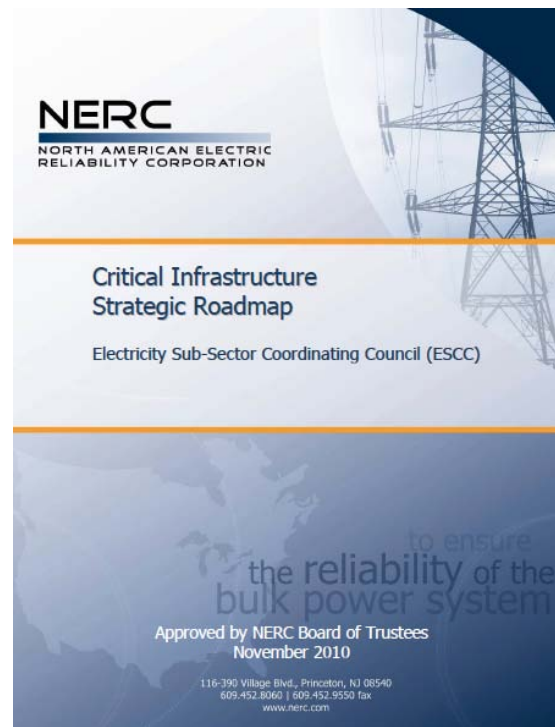
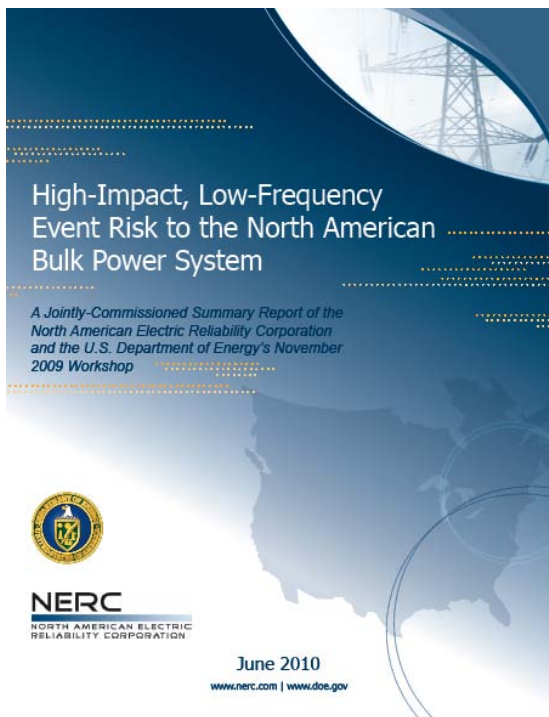
Electricity Sub-sector Coordinating Council (ESCC) Updates

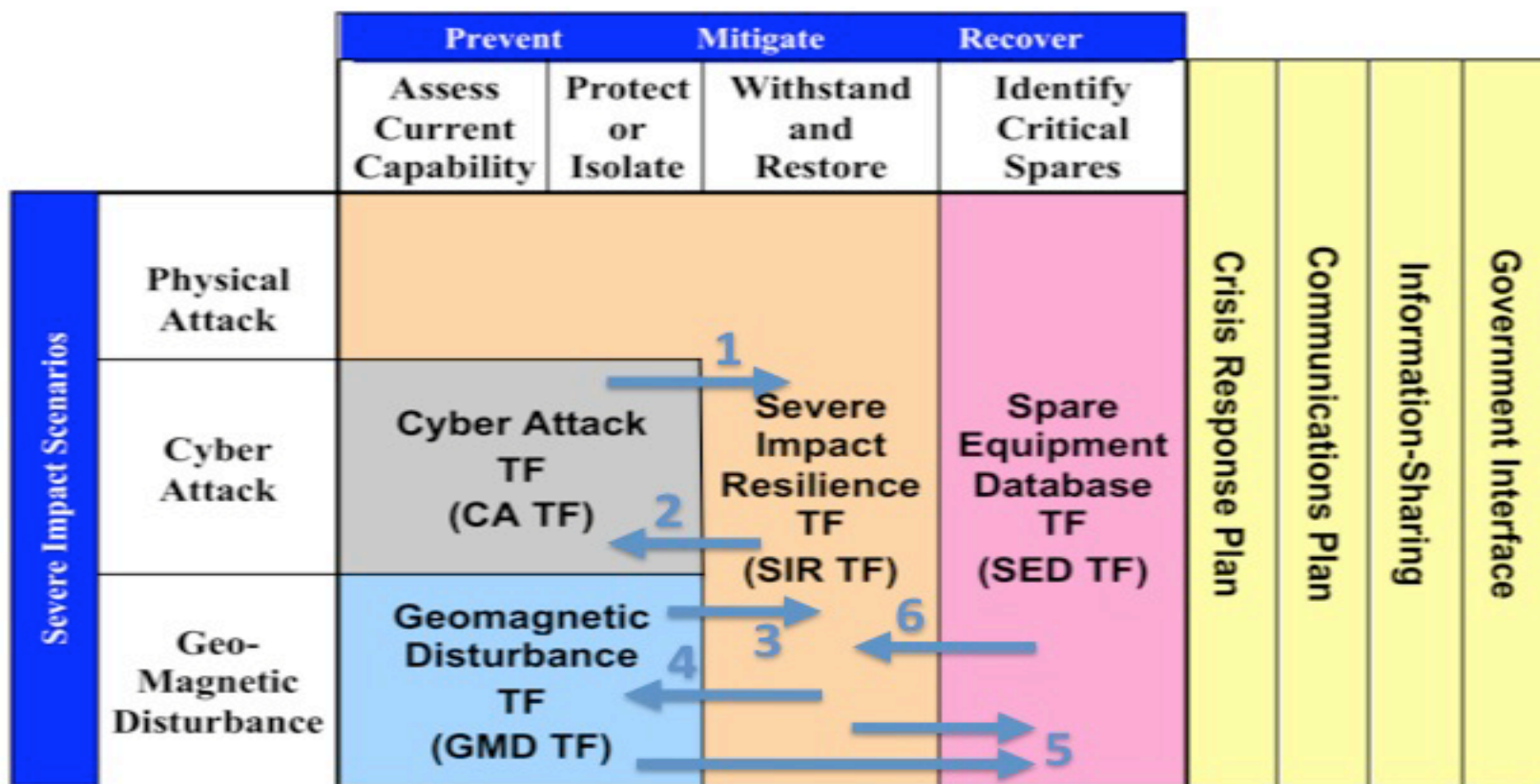
Board of Trustees Meeting
February 9, 2012

RELIABILITY | ACCOUNTABILITY



Strategic direction, coordinated action





- 1 – Provide assessment regarding impact of a cyber attack on essential operator tools and communications.
- 2 – Identify essential operator tools and communications .
- 3 – Model the impact of GMD, identify system conditions that operators would face.
- 4 – Provide assessment regarding value of greater advance warning to operators.
- 5 – Provide assessments regarding number and type of critical equipment damaged.
- 6 – Identify critical equipment with limited supply and long delivery times.

- Spare Equipment Database Task Force
 - Report complete, developing database
- Geomagnetic Disturbance Task Force (Feb 2012)
 - Further enhance understanding of transformer vulnerabilities
 - Further define “1-in-100 year” solar storm
 - Recommendations for industry action, but also additional study
- Cyber Attack Task Force (May 2012)
 - Limited industry input and comment, second request underway
- Severe Impact Resilience Task Force (estimate March 2012)
 - Stretch thinking beyond existing emergency capabilities
- All Task Forces
 - Communicate Task Force recommendations far and wide

Task Force Completion Milestones

Task Force or Initiative	Report to be Approved by	Request Comments on Draft	Receive Comments on Draft	ESCC Review	Technical Committees Approve Final	MRC and Board of Trustees Review
Geomagnetic Disturbance	OC and PC	Dec 2, 2011	Jan 6, 2012	Feb 1, 2012	Feb 1, 2012	Feb 22, 2012
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Severe Impact Resilience	OC (with PC endorsement)	Dec 13-15, 2011	Jan 4, 2012	Feb 6, 2012	Feb 2012	Mar 2012 ?
NERC Crisis Plan	NERC CEO	-	-	Aug 16, 2011	Not Required	Not Required

Indicates complete

"?" Indicates to be confirmed



REM G
REGIONAL ENTITY MANAGEMENT GROUP

Agenda Item 17b
Board of Trustees Meeting
February 9, 2012

SARAH ROGERS – FRCC	ED SCHWERDT – NPCC	SCOTT HENRY – SERC	LANE LANFORD – TRE
DAN SKAAR – MRO	TIM GALLAGHER – RFC	STACY DOCHODA – SPP	MARK MAHER – WECC

Date: January 26, 2012

Memo to: NERC Board of Trustees

From: Tim Gallagher, REMG Chair

Subject: Regional Entity Report for the February Board Meeting

Dear Chairman Anderson:

The Regional Entities appreciate this opportunity to provide input to the NERC Board of Trustees. For the benefit of the Trustees and Stakeholders, we offer the following Regional Entity insights regarding the Find, Fix, Track, and Report (FFT) Initiative which is the subject of one of your policy input requests to the MRC. Additionally, we have included a summary of current efforts by several of the joint NERC-Regional Entity working groups.

FFT- All of the Regional Entities support the FFT as a positive step towards focusing industry, Regional Entity, NERC and FERC resources on issues that have the greatest actual or potential risk to reliability. The Regional Entities view the first six months of the program as a successful start-up. While the volume of data from the FFT program to date may not be sufficient to make solid determinations on its success, we are confident that the program will mature to deliver results in efficiency gains and will be applied in a consistent manner across the Regional Entities over time.

We believe the six month report to FERC will be very important and must address the benefits of the program to date, challenges that have occurred during the initial implementation, misconceptions about the program, lessons learned in the first 6 months, and improvement opportunities which should be addressed to deliver more value. For Phase II, we support more focus on reducing compliance reporting burdens at the Registered Entity stages of the process by sharpening our collective focus on risks posed to the reliability of the Bulk Electric System.

ERO NERC - Regional Entity Work Groups

All of the Regional Entities take seriously our need to be as consistent as possible in discharging our delegated responsibilities. A key activity toward meeting this objective is our constant collaboration and interaction with each other and NERC. Below are summaries of recent activities of some of the key multi-Regional groups.

Subgroup: ERO-Compliance and Enforcement Management Group (ECEMG)

The ECEMG's purpose is to provide operational and day-to-day policy guidance in the execution of the Regional Entity delegation agreements and the NERC Rules of Procedure, specifically as it pertains to executing the Compliance Monitoring and Enforcement Program (CMEP).

Status of current high priority work items:

1. Compliance Enforcement Authority (CEA) Staff Training: Consistent, standardized, effective training for compliance staff continues to be a topic and area of discussion. NERC and the Regional Entities are developing training for CEA staff and will continue with two workshops for CEA staff in 2012. Additionally the ERO will conduct the first ever industry auditor training workshop for registered entities to facilitate better industry preparation and understanding of the audit process.
2. Risk Based Reliability Monitoring: The ECEMG spent a significant amount of time discussing and identifying the various aspects of this initiative. Several Regional Entities are already conducting entity risk assessments and working with entities as part of pilot programs. These efforts are providing a basic understanding of the impact that a risk assessment may have on the scope of compliance monitoring.
3. FFTR Second Phase Development
The group is beginning to discuss the various aspects of the second phase of the FFT process and how auditors will be involved in this effort. There are many facets of this effort involving various working group participation, along with NERC staff.

Subgroup: ERO-Reliability Assessments and Performance Analysis Group (ERO-RAPA)

The ERO-RAPA group has continued to support the NERC-wide misoperations template. Relay misoperations for the first three quarters of 2011 have been collected across the industry. Recent activities include a December, NERC-wide webinar on relay misoperations, including data presentation, industry best-practices and template feedback/updating.

Also, the ERO-RAPA group has continued to track developments within the NERC Planning Committee's System Protection and Control (SPCS) and Systems Analysis and Modeling Subcommittees (SAMS) on a consistent definition of special protection systems (SPS's). This effort was initiated by ERO-RAPA to coalesce regional approaches to SPS's.

In addition, the ERO-RAPA has been working with the certification and registration working group (CRWG) to help develop a consistent method for BES exception processing across NERC and all the Regional Entities.

ERO-RAPA also continues to support NERC staff in data collection and analysis areas such as TADS, GADS and DADS.

Subgroup: CIP Compliance Working Group (CCWG)

The CCWG completed a 6-month field trial of the CIP auditor workbook in November 2011, made some revisions, and Regional Entity CIP auditors will continue to use the workbook as a guideline. There have been discussions on possibly sharing certain information in the workbook with the industry as an aid in preparing for CIP audits.

The CCWG is evaluating the NetAPT firewall assessment tool being developed by the University of Illinois Urbana-Champaign under a DHS grant. Initial impression is that this may be a useful tool to improve the security of systems.

The CCWG members have been sharing their plans/approaches for managing CIP audits under the new tiered Actively Monitored List. The group is also examining ways to share CIP audit reports among Regional Entities in the interest of information sharing and promotion of consistent practices. The CCWG continues to discuss emerging issues and share other information aimed at improving the rigor and consistency of audit practices.

Subgroup: Enforcement Sanction Mitigation Working Group (ESMWG) –

The ESMWG focuses on inter-region collaboration pertaining to Enforcement and Mitigation topics in an effort to seek consistency in all enforcement activities across the Regions. Current work areas include reliability risk assessments, FFT processing, dismissals, and CIP NOP processing. The ESMWG, as always, continues to focus on inter-region collaboration pertaining to Enforcement and Mitigation topics in an effort to seek consistency in all enforcement activities across the Regions

Subgroup: Compliance Monitoring Process Working Group (CMPWG)

The CMPWG improves the consistency of Regional monitoring programs by working on the projects identified below and continual sharing of experiences in the performance of monitoring of the Registered Entities. The following are recent activities in which the CMPWG is involved:

- Review of Sampling Methodology and Samples developed for selected Reliability Standard Requirements
- Development of Audit Approaches of Operations/Planning Standards
- Sharing of Audit Process Tools among the Regions
- Development of Auditors Workbook
- Update and development of QRSAs for 2012
- Supporting ERO Auditor Workshops

Subgroup: **Compliance Information Management Group (CIMG)**

The CIMG is working to document the process for synching compliance data from Regional systems to NERC's Compliance Reporting and Track System (CRATS). The objective of this effort is to automate data handoffs, thereby benefitting Registered Entities by reducing the possibility of errors and increasing efficiency.

The CIMG is also working to streamline the method for electronically providing details of a violation discovered via Audit, Spot-Check, Investigation, etc. to the Regional Enforcement staff, ensuring sufficient detail is provided for a comprehensive assessment of a possible violation.

The next face-to-face CIMG meeting will be in conjunction with the Certification and Registration Working Group (CRWG). Both working groups will work to streamline processes related to the multi-regional registered entity (MRRE) process, BES Definition related work (inclusion, exclusion, and exceptions), registration matters and the necessary transmittal of data to the NERC Registration Database.

Mission

The Forum's mission is to **advance excellence** in the reliable operation of the electric transmission system. We do this by **developing and sharing best practices**, being **open and candid** with each other, fostering a sense of **"community,"** holding each other **accountable**, and ensuring the **commitment** of our members' senior leadership.

Forum Members

Members: 71

- Investor-owned: 43
- State/Municipal: 8
- Cooperative: 9
- Federal/Provincial: 6
- ISO/RTO: 5

Percent of total demand. Represents over 90% of the net peak demand in the U.S. and Canada

Transmission. Approximately 367,000 miles of transmission (about 77% of the transmission circuit miles at 100 kV and above in the U.S. and Canada)

Participants. 2100+ subject matter expert participants

Current Topics

Practices

- Physical and cyber security
- Personnel training and implementation of PER-005
- Vegetation management community education
- Modeling
- Compliance management
- System protection misoperations

Recent Surveys

- Switching practices
- Transmission sectionalizing
- Operating limits
- SCADA systems
- Substation logging procedures



Programs

The Forum is organized around four programs.

Practices. The Forum's groups of subject matter experts hold Web meetings each month and write Forum practices.

- Compliance
- Facility Ratings
- Human Performance
- Line and Substation Maintenance
- Modeling
- Operator Tools
- Operator Training
- Security
- System Protection
- Vegetation Management

Peer reviews. Forum peer reviews help our members "raise the bar" for their own operations from good to great.

Review teams that comprise subject matter experts in each practice area spend one week at the "host" peer site. The teams' final reports include

noteworthy practices that we share with the other Forum members, and recommendations for the host to implement.

Metrics. The Forum collects transmission equipment performance information, such as TADS data. Improving equipment performance directly contributes to improving reliability. The metrics program:

- Allows Forum members to view each other's data
- Provides tools to facilitate peer benchmarking
- Will expand of data collection in 2012

Information sharing. Forum members readily share information for "lessons learned" and assistance:

- System event analysis
- Equipment event reports and alerts
- Vegetation contacts
- Surveys on topical subjects
- Case studies
- Members' practices and procedures
- Audit experiences and lessons
- Compliance violations (feedback to Forum practices)

Membership Eligibility

Any organization that owns, operates, or controls at least 50 circuit miles of integrated (network) transmission facilities at 100 kV or above, operates a "24/7" transmission control center with NERC-certified transmission or reliability operators, or has an open access transmission tariff or equivalent on file with a regulatory authority, may join the Forum.

Selected Focus Areas

- Formalize and strengthen processes in all program areas. Ensure seamless integration
- Increase Peer Review formality, frequency, and focus
- Foster timely dissemination of lessons learned, facilitate effective member response
- Identify and proactively address adverse trends/precursors to more consequential events
- Proactively and routinely interface with FERC and the ERO on reliability focus areas
- Assume leadership role for resolution of selected reliability issues relevant to NATF mission
- Clarify roles and strengthen working relationships with other key industry reliability