

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

North American Electric Reliability Corporation ) Docket No. RR10-11-\_\_\_\_  
Corporation )

**COMPLIANCE FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
IN RESPONSE TO OCTOBER 7, 2011 ORDER**

On October 7, 2011, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued an order conditionally accepting a compliance filing submitted by the North American Electric Reliability Corporation (“NERC”) on February 18, 2011, and directed NERC to make an additional compliance filing within thirty days.<sup>1</sup> Specifically, in the October 7, 2011 Order, the Commission rejected NERC’s proposal to delete Section 402.1.3.2 of the NERC Rules of Procedure (“ROP”). The instance compliance filing is made to restore Section 402.1.3.2 to the NERC ROP.

**I. Background**

On June 9, 2010, as supplemented on June 17, 2010, NERC submitted a filing to FERC requesting approval of revisions to the Regional Delegation Agreements (“RDAs”) and to certain ROP provisions. FERC conditionally accepted the June 9, 2010 filing on October 21, 2010<sup>2</sup> and directed NERC to submit a compliance filing, which NERC submitted on February 18, 2011. The October 7, 2011 Order conditionally accepted the February 18, 2011 compliance filing and the additional RDA and ROP revisions submitted with the compliance filing, with one exception. Specifically, FERC rejected NERC's proposed deletion of Section 402.1.3.2 from the Rules of Procedure, and FERC directed NERC to file a compliance filing by November 7, 2011 restoring

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<sup>1</sup> *North American Electric Reliability Corporation*, 137 FERC ¶ 61,028 (2011) (“October 7, 2011 Order”).

<sup>2</sup> *North American Electric Reliability Corporation*, 133 FERC ¶ 61,061 (2010).

Section 402.1.3.2 to the ROP. FERC stated that NERC had not provided sufficient justification for deleting that provision. On November 3, 2011, the NERC Board of Trustees approved restoring the provision to the ROP.

## **II. Restoration of text of Section 402.1.3.2 to the ROP**

Section 402.1.3.2 pertains to the program whereby NERC verifies the results of compliance audits conducted by Regional Entities. The language of the Section reads as follows:

NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibilities.

As shown in Attachment A hereto, which includes a clean and redline version of the relevant section of the ROP, NERC has restored this provision to the ROP, in compliance with the Commission's October 7, 2011 Order.<sup>3</sup>

The program will be integrated into the restructured Regional Entity Audit Program as a distinct module. NERC staff is developing the informational filing and program document for the restructured Regional Entity Audit Program. NERC staff plans to present it to the Board of Trustees Compliance Committee at its December, 2011 meeting. If approved, it will be filed with the Commission shortly thereafter.

## **III. Conclusion**

NERC respectfully requests that the Commission (1) accept this compliance filing and Attachment A as compliance with the directive in the October 7, 2011 Order, and (2) approve the instant amendment to the NERC ROP.

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<sup>3</sup> Previously Section 402.1.3 had two subsections, 402.1.3.1 and 402.1.3.2. When NERC proposed to eliminate 402.1.3.2, it collapsed the text of 402.1.3.1 into Section 402.1.3. Therefore, the text that was formerly in Section 402.1.3.2, which is being restored to the ROP, is now numbered as Section 402.1.3.1, as shown in Attachment A.

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Dated: November 7, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 7<sup>th</sup> day of November, 2011.

/s/ \_\_\_\_\_  
Sonia Mendonca  
Attorney  
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## Clean Version of the NERC Rules of Procedure

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Rules of Procedure

Effective: [DATE]

**TABLE OF CONTENTS**

<b>SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE.....</b>	<b>1</b>
<b>SECTION 200 — DEFINITIONS OF TERMS .....</b>	<b>2</b>
201. General .....	2
202. Specific Definitions .....	2
<b>SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT .....</b>	<b>5</b>
301. General .....	5
302. Essential Attributes for Technically Excellent Reliability Standards.....	5
303. Relationship between Reliability Standards and Competition .....	7
304. Essential Principles for the Development of Reliability Standards.....	8
305. Registered Ballot Body.....	8
306. Standards Committee.....	10
307. Standards Process Manager .....	11
308. Steps in the Development of Reliability Standards .....	11
309. Filing of Reliability Standards for Approval by ERO Governmental Authorities .....	11
310. Reliability Standards Annual Work Plan.....	13
311. Regional Entity Standards Development Procedures .....	13
312. Regional Reliability Standards .....	15
313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.....	18
314. Conflicts with Statutes, Regulations, and Orders .....	18
315. Revisions to NERC Reliability Standards Development Procedure .....	19
316. Accreditation .....	19
317. Five-Year Review of Standards.....	19
318. Coordination with the North American Energy Standards Board .....	19
319. Archived Standards Information .....	20
320. Alternate Method for Adopting Violation Risk Factors .....	20
321. Special Rule to Address Certain Regulatory Directives.....	20
<b>SECTION 400 — COMPLIANCE ENFORCEMENT .....</b>	<b>24</b>
401. Scope of the NERC Compliance Enforcement Program.....	24
402. NERC Oversight of the Regional Entity Compliance Enforcement Programs .....	27
403. Required Attributes of Regional Entity Compliance Enforcement Programs .....	30
404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users .....	36
405. Monitoring of Standards and Other Requirements Applicable to NERC.....	37
406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program .....	38
407. Penalties, Sanctions, and Remedial Actions.....	38
408. Review of NERC Decisions .....	39
409. Appeals from Final Decisions of Regional Entities .....	40
410. Hold Harmless .....	41
411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards.....	41
<b>SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION .....</b>	<b>42</b>
501. Scope of the Organization Registration and Organization Certification Programs.....	42
502. Organization Registration and Organization Certification Program Requirements .....	45
503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements .....	47

504.	Appeals .....	48
505.	Program Maintenance .....	49
506.	Independent Audit of NERC Organization Registration and Organization Certification Program .....	49
507.	Provisions Relating to Joint Registration Organizations (JRO) .....	49
508.	Provisions Relating to Coordinated Functional Registration (CFR) Entities .....	50
<b>SECTION 600 — PERSONNEL CERTIFICATION .....</b>		<b>53</b>
601.	Scope of Personnel Certification .....	53
602.	Structure of ERO Personnel Certification Program .....	53
603.	Candidate Testing Mechanisms .....	54
604.	Public Information About the Personnel Certification Program .....	55
605.	Responsibilities to Applicants for Certification or Recertification .....	55
606.	Responsibilities to the Public and to Employers of Certified Practitioners .....	56
<b>SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS .....</b>		<b>57</b>
701	Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members .....	57
702.	Formation of Sector Forum .....	57
<b>SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS .....</b>		<b>58</b>
801.	Objectives of the Reliability Assessment and Performance Analysis Program .....	58
802.	Scope of the Reliability Assessment Program .....	58
803.	Reliability Assessment Reports .....	59
804.	Reliability Assessment Data and Information Requirements .....	60
805.	Reliability Assessment Process .....	61
806.	Scope of the Reliability Performance and Analysis Program .....	63
807.	Analysis of Major Events .....	63
808.	Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance .....	64
809.	Reliability Benchmarking .....	64
810.	Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions .....	65
811.	Equipment Performance Data .....	66
<b>SECTION 900 — TRAINING AND EDUCATION .....</b>		<b>67</b>
901.	Scope of the Training and Education Program .....	67
902.	Continuing Education Program .....	67
<b>SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY .....</b>		<b>69</b>
1001.	Situation Awareness .....	69
1002.	Reliability Support Services .....	69
1003.	Infrastructure Security Program .....	69
<b>SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS .....</b>		<b>72</b>
1101.	Scope of Business Plans and Budgets .....	72
1102.	NERC Funding and Cost Allocation .....	72
1103.	NERC Budget Development .....	72
1104.	Submittal of Regional Entity Budgets to NERC .....	73
1105.	Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval .....	73
1106.	NERC and Regional Entity Billing and Collections .....	74
1107.	Penalty Applications .....	75



1108.	Special Assessments .....	76
<b>SECTION 1200 — REGIONAL DELEGATION AGREEMENTS .....</b>		<b>77</b>
1201.	Pro Forma Regional Delegation Agreement.....	77
1202.	Regional Entity Essential Requirements .....	77
1203.	Negotiation of Regional Delegation Agreements.....	77
1204.	Conformance to Rules and Terms of Regional Delegation Agreements.....	77
1205.	Sub-delegation .....	77
1206.	Nonconformance to Rules or Terms of Regional Delegation Agreement.....	77
1207.	Regional Entity Audits .....	78
1208.	Process for Considering Registered Entity Requests to Transfer to Another Regional Entity Audits .....	78
<b>SECTION 1300 — COMMITTEES .....</b>		<b>81</b>
1301.	Establishing Standing Committees .....	81
1302.	Committee Membership .....	81
1303.	Procedures for Appointing Committee Members.....	81
1304.	Procedures for Conduct of Committee Business .....	81
1305.	Committee Subgroups .....	82
<b>SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE .....</b>		<b>83</b>
1401.	Proposals for Amendment or Repeal of Rules of Procedure .....	83
1402.	Approval of Amendment or Repeal of Rules of Procedure.....	83
1403.	Alternative Procedure for Violation Risk Factors .....	83
<b>SECTION 1500 — CONFIDENTIAL INFORMATION.....</b>		<b>84</b>
1501.	Definitions .....	84
1502.	Protection of Confidential Information .....	84
1503.	Requests for Information.....	85
1504.	Employees, Contractors and Agents.....	87
1505.	Provision of Information to FERC and Other Governmental Authorities.....	87
1506.	Permitted Disclosures .....	87
1507.	Remedies for Improper Disclosure.....	87
<b>SECTION 1600 — REQUESTS FOR DATA OR INFORMATION .....</b>		<b>89</b>
1601.	Scope of a NERC or Regional Entity Request for Data or Information .....	89
1602.	Procedure for Authorizing a NERC Request for Data or Information.....	89
1603.	Owners, Operators, and Users to Comply.....	90
1604.	Requests by Regional Entity for Data or Information .....	90
1605.	Confidentiality .....	91
1606.	Expedited Procedures for Requesting Time-Sensitive Data or Information.....	91

## **SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE**

NERC and NERC members shall comply with these rules of procedure. Each regional entity shall comply with these rules of procedure as applicable to functions delegated to the regional entity by NERC or as required by an appropriate governmental authority or as otherwise provided.

Each bulk power system owner, operator, and user shall comply with all rules of procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

Any entity that is unable to comply or that is not in compliance with a NERC rule of procedure shall immediately notify NERC in writing, stating the rule of concern and the reason for not being able to comply with the rule.

NERC shall evaluate each case and inform the entity of the results of the evaluation. If NERC determines that a rule has been violated, or cannot practically be complied with, NERC shall notify the applicable governmental authorities and take such other actions as NERC deems appropriate to address the situation.

NERC shall comply with each approved reliability standard that identifies NERC or the electric reliability organization as a responsible entity. Regional Entities shall comply with each approved reliability standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a reliability standard shall constitute a violation of these Rules of Procedure.

## **SECTION 200 — DEFINITIONS OF TERMS**

### **201. General**

For purposes of NERC rules of procedure, the terms defined in Section 202 shall have the meaning set forth therein. Other terms are defined within particular sections of the rules of procedure. Other terms used but not defined in the rules of procedure shall be defined in NERC's Bylaws, the NERC Glossary of Terms Used in Reliability Standards adopted in conjunction with NERC's Reliability Standards, or in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.

### **202. Specific Definitions**

“Board” means the Board of Trustees of NERC.

“Bulk power system” means facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative irrespective(s) of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Confirmed violation” is one for which an entity has: 1) accepted the finding of the violation by a regional entity or NERC and will not seek an appeal, or 2) completed the hearing and appeals process within NERC, or 3) allowed the time for submitting an appeal to expire, or 4) admitted to the violation in a settlement agreement.

“Electric reliability organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the bulk power system in the United States. The organization may also have received recognition by applicable governmental authorities in Canada and Mexico to establish and enforce reliability standards for the bulk power systems of the respective countries.

“Entity variance” means an aspect of a reliability standard that applies only within a particular entity or a subset of entities within a limited portion of a regional entity, such as a variance that would apply to a regional transmission organization or particular market or to a subset of bulk power system owners, operators or users. An entity variance may not be inconsistent with or less stringent than the reliability standards as it would otherwise exist without the entity variance. An entity variance shall be approved only through the NERC standards development procedure and shall be made part of the NERC reliability standards.

“ERO governmental authority” is a government agency that has subject matter jurisdiction over the reliability of the bulk power system within its jurisdictional territory. In the United States, the ERO governmental authority is the Federal Energy Regulatory Commission. In Canada, the ERO governmental authority resides with applicable federal and provincial governments who may delegate duties and responsibilities to other entities. Use of the term is intended to be inclusive of all applicable authorities in the United States, Canada, and Mexico, and is not restricted to those listed here.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Reliable operation” means operating the elements of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

“Regional criteria” means reliability requirements developed by a regional entity that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Such regional criteria may be necessary to account for physical differences in the bulk power system but are not inconsistent with reliability standards nor do they result in lesser reliability. Such regional criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional reliability standard” means a type of reliability standards that is applicable only within a particular regional entity or group of regional entities. A regional reliability standard may augment, add detail to, or implement another reliability standard or cover matters not addressed by other reliability standards. Regional reliability standards, upon adoption by NERC and approval by the applicable ERO governmental authority(ies), shall be reliability standards and shall be enforced within the applicable regional entity or regional entities pursuant to delegated authorities.

“Reliability standard” means a requirement to provide for reliable operation of the bulk power system, including without limiting the foregoing, requirements for the operation of existing bulk power system facilities, including cyber security protection, and including the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system, but the term does not include any requirement to enlarge bulk power system facilities or to construct new transmission capacity or generation capacity. A reliability standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the applicable governmental authority.

“Variance” means an aspect or element of a reliability standard that applies only within a particular regional entity or group of regional entities, or to a particular entity or class of entities. A variance allows an alternative approach to meeting the same reliability objective as the reliability standard, and is typically necessitated by a physical difference. A variance is embodied within a reliability standard and as such, if adopted by NERC and approved by the ERO governmental authority, shall be enforced within the applicable regional entity or regional entities pursuant to delegated authority.

## **SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT**

### **301. General**

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

### **302. Essential Attributes for Technically Excellent Reliability Standards**

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes<sup>1</sup> include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
  - 2.1 **Reliability Planning and Operating Performance**— Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
  - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.

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<sup>1</sup> These functional classes of entities are derived from NERC's Reliability Functional Model. When a standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in Reliability Standards.

- 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.
  - 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
  - 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
  - 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
  - 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
  - 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
  4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
  5. **Technical Basis in Engineering and Operations**— Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
  6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.

7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.
8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

### **303. Relationship between Reliability Standards and Competition**

To ensure reliability standards are developed with due consideration of impacts on competition, to ensure standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each reliability standard shall meet all of these market-related objectives:

1. **Competition** — A reliability standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A reliability standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A reliability standard shall not preclude market solutions to achieving compliance with that standard.
4. **Commercially Sensitive Information** — A reliability standard shall not require the public disclosure of commercially sensitive information or other confidential information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.
5. **Adequacy** — NERC shall not set standards defining an adequate amount of, or requiring expansion of, bulk power system resources or delivery capability.



### **304. Essential Principles for the Development of Reliability Standards**

NERC shall develop reliability standards in accordance with the NERC *Standard Processes Manual*, which is incorporated into these rules as **Appendix 3A**. Appeals in connection with the development of a reliability standard shall also be conducted in accordance with the NERC *Standard Processes Manual*. Any amendments or revisions to the *Standard Processes Manual* shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

### **305. Registered Ballot Body**

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.

2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
  - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.
  - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
  - 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Standard Processes Manual* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries** — NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant's self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

### 306. Standards Committee

The Standards Committee shall provide oversight of the reliability standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
  - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
  - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
  - 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
  - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

### **307. Standards Process Manager**

NERC shall assign a standards process manager to administer the development of reliability standards. The standards process manager shall be responsible for ensuring that the development and revision of standards are in accordance with the NERC *Standard Processes Manual*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the reliability standards. The standards process manager shall coordinate with any regional entities that develop regional reliability standards to ensure those standards are effectively integrated with the NERC reliability standards.

### **308. Steps in the Development of Reliability Standards**

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the NERC *Standard Processes Manual* (**Appendix 3A**). The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the *Standard Processes Manual* shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.
3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

### **309. Filing of Reliability Standards for Approval by ERO Governmental Authorities**

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.

2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The expedited action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply.
  
3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the expedited action procedures described in the *Standard Processes Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

  - 3.1 Consistent with all reliability standards developed under the expedited action process, each of the three possible follow-up actions as documented in the *Standard Processes Manual* are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

**310. Reliability Standards Annual Work Plan**

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

**311. Regional Entity Standards Development Procedures**

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a regional entity to develop regional reliability standards that are to be recognized and made part of NERC reliability standards, a regional entity may request NERC to approve a regional entity reliability standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed regional standards development procedure, allowing a minimum of 45 days for comment. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the procedure and request another posting for comment, or submit the procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a regional reliability standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the regional entity, in making that determination. If NERC determines the regional reliability standards development procedure meets these requirements, the procedure shall be submitted to the board for approval. The board shall consider the recommended action, stakeholder comments, any unresolved stakeholder comments, and the regional entity consideration of comments in determining whether to approve the regional reliability standards development procedure.
  - 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
    - 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not

be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

- 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.
  - 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
  - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
  - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
  - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
  - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the *NERC Standard Processes Manual* as the regional reliability standards development procedure, in which case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.
- 4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a regional reliability standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
  - 5. **Duration of Regional Reliability Standards Development Procedures** — The regional reliability standards development procedure shall remain in effect until

such time as it is replaced with a new version approved by NERC or it is withdrawn by the regional entity. The regional entity may, at its discretion, withdraw its regional reliability standards development procedure at any time.

### **312. Regional Reliability Standards**

1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
  - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.



- 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, NERC's recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 3.4 **ERO Governmental Authority Approval** — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.
4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards** — Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective

regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

- 4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.
- 4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO

governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. **Appeals** — A Regional Entity shall have the right to appeal NERC’s decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

### **313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.**

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

### **314. Conflicts with Statutes, Regulations, and Orders**

**Notice of Potential Conflict** — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue

to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

**315. Revisions to NERC Reliability Standards Development Procedure**

Any person or entity may submit a written request to modify NERC *Standard Processes Manual*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Standard Processes Manual*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

**316. Accreditation**

NERC shall seek continuing accreditation of the NERC reliability standards development process by the American National Standards Institute and the Standards Council of Canada.

**317. Five-Year Review of Standards**

NERC shall complete a review of each NERC reliability standard at least once every five years from the effective date of the standard or the latest revision to the standard, whichever is later. The review process shall be conducted in accordance with the NERC *Standard Processes Manual*. The standards process manager shall be responsible for administration of the five-year review of reliability standards. As a result of this review, the NERC reliability standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Standard Processes Manual*.

**318. Coordination with the North American Energy Standards Board**

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC reliability standards.

**319. Archived Standards Information**

NERC shall maintain a historical record of reliability standards information that is no longer maintained on-line. For example, standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standards review cycle from the date on which the standard was no longer in effect. Archived records of reliability standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

**320. Alternate Method for Adopting Violation Risk Factors**

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

**321. Special Rule to Address Certain Regulatory Directives**

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by applicable ERO governmental authorities. If the Board of Trustees is presented with a proposed standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed reliability standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to remand the proposed reliability standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed reliability standard one additional time, with such adjustments in the

schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.

- 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.
- 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the proposal shall be counted for purposes of determining the number of votes cast and whether the proposed standard has been approved.
3. If the re-balloted proposed reliability standard achieves at least an affirmative two-thirds majority vote of the weighted segment votes cast, with a quorum established, then the proposed reliability standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed reliability standard fails to achieve at least an affirmative two-thirds majority vote of the weighted segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed reliability standard for approval under the following procedures:
  - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed reliability standard and shall solicit written public comment particularly focused on the technical aspects of the provisions of the proposed reliability standard that address the specific matter identified in the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.
  - 4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.
  - 4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed reliability standard.

- 4.3.1 If the Board of Trustees finds that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed reliability standard and direct that it be filed with applicable ERO governmental authorities with a request that it be made effective.
  - 4.3.2 If the Board of Trustees is unable to find that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed reliability standard as a draft reliability standard and direct that the draft reliability standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the applicable ERO governmental authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the standard not be made effective and an explanation of the basis for the recommendation.
- 5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft reliability standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such draft reliability standard, the Board of Trustees may direct NERC management to prepare such draft reliability standard.
  - 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft reliability standard shall be posted for a 45-day public comment period.
  - 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of

Trustees finds that the draft reliability standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to approve the draft standard and direct that the proposed standard be filed with ERO governmental authorities with a request that the proposed standard be made effective.

- 5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft reliability standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to direct that the draft standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the ERO governmental authority issuing the regulatory directive, with a recommendation that the draft standard not be made effective.
  - 5.4 The filing of the reliability standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.
  - 5.5 A reliability standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.
6. NERC shall on or before March 31<sup>st</sup> of each year file a report with applicable ERO governmental authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an applicable ERO governmental authority.



## **SECTION 400 — COMPLIANCE ENFORCEMENT**

### **401. Scope of the NERC Compliance Enforcement Program**

1. **Components of the NERC Compliance Enforcement Program** — NERC shall develop and implement a NERC Compliance Monitoring and Enforcement Program to promote the reliability of the bulk power system by enforcing compliance with approved reliability standards in those regions of North American in which NERC and/or a regional entity (pursuant to a delegation agreement with NERC that has been approved by the applicable ERO governmental authority) has been given enforcement authority. There are four distinct parts of the NERC Monitoring and Compliance Enforcement Program: (1) NERC's oversight of the regional entity compliance programs (Section 402), (2) the definition of the required regional entity compliance enforcement program attributes (Section 403), (3) NERC's monitoring of regional entity compliance with reliability standards (Section 404), and (4) the monitoring of compliance with reliability standards that are applicable to NERC (Sections 405–406).
2. **Who Must Comply** — Where required by applicable legislation, regulation, rule or agreement, all bulk power system owners, operators, and users, regional entities, and NERC, are required to comply with all approved NERC reliability standards at all times. Regional reliability standards and regional variances approved by NERC and the applicable ERO governmental authority shall be considered NERC reliability standards and shall apply to all bulk power system owners, operators, or users responsible for meeting those standards within the regional entity boundaries, whether or not the bulk power system owner, operator, or user is a member of the regional entity.
3. **Data Access** — All bulk power system owners, operators, and users shall provide to NERC and the applicable regional entity such information as is necessary to monitor compliance with the reliability standards. NERC and the applicable regional entity will define the data retention and reporting requirements in the reliability standards and compliance reporting procedures.
4. **Role of Regional Entities in the Compliance Enforcement Program** — Each regional entity that has been delegated authority through a delegation agreement or other legal instrument approved by the applicable ERO governmental authority shall, in accordance with the terms of the approved delegation agreement, administer a regional entity compliance enforcement program to meet the NERC Compliance Monitoring and Enforcement Program goals and the requirements in this Section 400.
5. **Program Continuity** — NERC will ensure continuity of compliance monitoring and enforcement within the geographic boundaries of a regional entity in the event that NERC does not have a delegation agreement, or the regional entity withdraws from the agreement or does not operate its compliance enforcement program in accordance with the delegation agreement or other applicable requirements.

- 5.1 Should NERC not have a delegation agreement with a regional entity covering a geographic area, or a regional entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the bulk-power system within that geographic area.
1. This monitoring and enforcement will be accomplished by NERC and compliance staff from another approved regional entity.
  2. If an existing delegation agreement with a regional entity is terminating, the regional entity shall promptly provide to NERC all relevant compliance information regarding registered entities, contacts, prior compliance information and actions, mitigation plans, and remedial actions for the period in which the regional entity was responsible for administering the Compliance Monitoring and Enforcement Program.
  3. NERC will levy and collect all penalties directly and will utilize any penalty monies collected to offset the expenses of administering the compliance monitoring and enforcement program for the geographic area.
- 5.2 Should a regional entity seek to withdraw from its delegation agreement, NERC will seek agreement from another regional entity to amend its delegation agreement with NERC to extend that regional entity's boundaries for compliance monitoring and enforcement. In the event no regional entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the regional entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the regional entities, stakeholders, and regulators, shall annually select a subset of the NERC reliability standards and requirements to be actively monitored and audited in the NERC annual compliance program. Compliance is required 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 NERC annual compliance program.
  7. **Penalties, Sanctions, and Remedial Actions** — NERC and regional entities will apply penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
  8. **Multiple Enforcement Actions** – A registered entity shall not be subject to an enforcement action by NERC and a regional entity for the same violation.
  9. **Records** — NERC shall maintain a record of each compliance submission, including self-reported, possible, alleged, and confirmed violations of approved

reliability standards; associated penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. **Confidential Information** — NERC will treat all possible and alleged violations of reliability standards and matters related to a compliance monitoring and enforcement program process, including the status of any compliance investigation or other compliance monitoring and enforcement process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as critical energy infrastructure information in accordance with Section 1500.

The regional entity and NERC shall give bulk power system owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. **Public Posting** — When the affected bulk power system owner, operator, or user either agrees with a possible or alleged violation(s) of a reliability standard(s) or a report of a compliance audit or compliance investigation, or enters into a settlement agreement concerning a possible or alleged violation(s), or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these rules, publicly post each confirmed violation, penalty or sanction, settlement agreement and final compliance audit or compliance investigation report, on its Web site.

11.1 Each bulk power system owner, operator, or user may provide NERC with a statement to accompany the violation or report to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.

11.2 In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other confidential information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of critical energy infrastructure information or other confidential information, for each confirmed violation or settlement relating to a possible violation or an alleged violation, the public posting shall include the name of any relevant entity, the nature, time period, and circumstances of such possible, alleged or confirmed violation, any mitigation plan to be implemented by the entity in connection with the violation or settlement, and sufficient facts to assist owners, operators and

users of the bulk power system to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC compliance monitoring and enforcement program staff shall periodically review and analyze all reports of possible, alleged and confirmed violations to identify trends and other pertinent reliability issues.

#### **402. NERC Oversight of the Regional Entity Compliance Enforcement Programs**

1. **NERC Monitoring Program** — NERC shall have a program to monitor the compliance enforcement program of each regional entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the regional entity carries out its compliance enforcement program in accordance with these rules and the terms of the delegation agreement, and to ensure consistency and fairness of the regional entity's compliance enforcement program. Oversight and monitoring by NERC shall be accomplished through an annual compliance enforcement program review, program audits, and regular evaluations of regional entity compliance enforcement program performance as described below.
  - 1.1 **NERC Review of Regional Compliance Enforcement Program Annual Plans** — NERC shall require each regional entity to submit for review and approval an annual compliance enforcement program implementation plan. NERC shall review each regional entity's compliance enforcement program annual implementation plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.
  - 1.2 **Regional Entity Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each regional entity compliance enforcement program to determine the effectiveness of each regional entity program, using criteria developed by the NERC Compliance and Certification Committee.
  - 1.3 **Regional Entity Program Audit** — At least once every five years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved regional entity annual compliance enforcement program annual implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity. In addition, audits of cross-border regional entities shall cover applicable requirements imposed on the regional entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the regional entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an applicable ERO

governmental authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these rules of procedure regarding disclosures of non-public compliance information related to other jurisdictions. NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each regional entity compliance enforcement program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

1.3.1 NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibilities.

1.4 ERO governmental authorities will be allowed to participate as an observer in any audit conducted by NERC of a regional entity's compliance monitoring and enforcement program. A representative of the regional entity being audited will be allowed to participate in the audit as an observer.

2. **Consistency Among Regional Compliance Enforcement Programs** — To provide for a consistent compliance enforcement program for all bulk power system owners, operators, and users required to comply with approved reliability standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as **Appendix 4C**. Any differences in regional entity program methods, including determination of violations and penalty assessment, shall be justified on a case-by-case basis and fully documented in each regional entity delegation agreement.

2.1 NERC shall ensure that each of the regional entity compliance enforcement programs meets these Rules of Procedure, including **Appendix 4C**, and follows the terms of the delegation agreement and the approved regional entity compliance enforcement program annual plan.

2.2 NERC shall maintain a single, uniform compliance monitoring and enforcement program in **Appendix 4C** containing the procedures to ensure the consistency and fairness of the processes used to determine regional entity compliance enforcement program findings of compliance and noncompliance, and the application of penalties and sanctions.

2.3 NERC shall periodically conduct regional entity compliance manager forums. These forums shall use the results of regional entity compliance program audits and findings of NERC compliance staff to identify and refine regional entity compliance program differences into a set of best practices over time.

3. **Information Collection and Reporting** — NERC and the regional entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all confirmed violations and maintain as confidential possible violations and alleged violations, according to the reporting and disclosure process in **Appendix 4C**.
5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and regional entity compliance staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the appropriate governmental authorities or where otherwise authorized, to determine penalties and sanctions for noncompliance with a reliability standard, and issue remedial action directives. Regional entity boards or a compliance panel reporting directly to the regional entity board will be vested with the authority for the overall regional entity compliance program and have the authority to impose penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial action directives may be issued by NERC or a regional entity that is aware of a bulk power system owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a reliability standard, where such directive is immediately necessary to protect the reliability of the bulk power system from an imminent threat. If, after receiving such a directive, the bulk power system owner, operator, or user does not take appropriate action to avert a violation of a reliability standard, NERC may petition the applicable ERO governmental authority to issue a compliance order.
6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections 408-410. The process shall allow bulk power system owners, operators, and users to appeal the regional entity's findings of noncompliance and to appeal penalties, sanctions, and remedial actions that are levied by the regional entity. Appeals beyond the NERC process will be heard by the applicable ERO governmental authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a regional entity for standards and requirements where the regional entity is monitored for compliance to a reliability standard. No monetary penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.
7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a regional reliability standard.
8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and regional entity staff, audit team

members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including investigations, audits, spot checks, drafting of reports, appeals, and closed meetings.

- 8.1 NERC and the regional entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other compliance enforcement program participants.
  - 8.2 Individuals not bound by NERC or regional entity codes of conduct who serve on compliance-related committees or audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or team.
  - 8.3 Information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
  - 8.4 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to appropriate action by the regional entity or NERC, including prohibiting participation in future compliance enforcement activities.
9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and regional entity compliance enforcement audits. Training for NERC and regional entity personnel and others who serve as compliance audit team leaders shall be more comprehensive than training given to industry subject matter experts and regional entity members. Training for regional entity members may be delegated to the regional entity.

#### **403. Required Attributes of Regional Entity Compliance Enforcement Programs**

Each regional entity compliance enforcement program shall promote excellence in the enforcement of reliability standards. To accomplish this goal, each regional entity compliance enforcement program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, **Appendix 4C** to these rules of procedure, except to the extent of any deviations that are stated in the regional entity's delegation agreement, and (ii) meet all of the attributes set forth in this Section 403.

##### **Program Structure**

1. **Independence** — Each regional entity's governance of its compliance enforcement program shall exhibit independence, meaning the compliance enforcement program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the regional entity. The program shall not be unduly influenced by the bulk power system owners, operators, and users being monitored or other regional entity

activities that are required to meet the reliability standards. Regional entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.

2. **Exercising Authority** — Each regional entity compliance enforcement program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and **Appendix 4C**. These functions include but are not limited to: data gathering, data reporting, compliance investigations, compliance auditing activities, evaluating compliance and noncompliance, imposing penalties and sanctions, and approving and tracking mitigation actions.
3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a regional entity shall not sub-delegate its compliance enforcement program duties to entities or persons other than the regional entity compliance enforcement program staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other appropriate ERO governmental authority, to another regional entity.
4. **Hearings of Contested Findings or Sanctions** — The regional entity board or compliance panel reporting directly to the regional entity board (with appropriate recusal procedures) will be vested with the authority for conducting compliance hearings in which any bulk power system owner, operator, or user provided notice of an alleged violation may present facts and other information to contest a notice of alleged violation or any proposed penalty, sanction, any remedial action directive, or any mitigation plan component. Compliance hearings shall be conducted in accordance with the Hearing Process set forth in Attachment 2 to **Appendix 4C**. If a stakeholder body serves as the hearing body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

### **Program Resources**

5. **Regional Entity Compliance Staff** — Each regional entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the regional entity compliance monitoring and enforcement program.
6. **Regional Entity Compliance Staff Independence** — The regional entity compliance monitoring and enforcement program staff shall be capable of and required to make all determinations of compliance and noncompliance and determine penalties, sanctions, and remedial actions.
  - 6.1 Regional entity compliance enforcement program staff shall not have a conflict of interest, real or perceived, in the outcome of compliance monitoring and enforcement processes, reports, or sanctions. The regional entity shall have in effect a conflict of interest policy.



- 6.2 Regional entity compliance monitoring and enforcement program staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes (with the input of industry subject matter experts), make determinations of compliance or noncompliance, and levy penalties and sanctions without interference or undue influence from regional entity members and their representative or other industry entities.
  - 6.3 Regional entity compliance monitoring and enforcement program staff may call upon independent technical subject matter experts who have no conflict of interest in the outcome of the compliance monitoring and enforcement process to provide technical advice or recommendations in the determination of compliance or noncompliance.
  - 6.4 Regional entity compliance monitoring and enforcement program staff shall abide by the confidentiality requirements contained in Section 1500 and **Appendix 4C** of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
  - 6.5 Contracting with independent consultants or others working for the regional entity compliance enforcement program shall be permitted provided the individual has not received compensation from a bulk power system owner, operator, or user being monitored for a period of at least the preceding six months and owns no financial interest in any bulk power system owner, operator, or user being monitored for compliance to the reliability standard, regardless of where the bulk power system owner, operator, or user operates. Any such individuals for the purpose of these rules shall be considered as augmenting regional entity compliance staff.
- 7. Use of Industry Subject Matter Experts and Regional Entity Members —** Industry experts and regional entity members may be called upon to provide their technical expertise in compliance monitoring and enforcement program activities.
- 7.1 The regional entity shall have procedures defining the allowable involvement of industry subject matter experts and regional entity members. The procedures shall address applicable antitrust laws and conflicts of interest.
  - 7.2 Industry subject matter experts and regional entity members shall have no conflict of interest or financial interests in the outcome of their activities.
  - 7.3 Regional entity members and industry subject matter experts, as part of teams or regional entity committees, may provide input to the regional entity compliance staff so long as the authority and responsibility for (i) evaluating and determining compliance or noncompliance and (ii) levying penalties, sanctions, or remedial actions shall not be delegated to any person or entity other than the compliance staff of the regional entity. Industry subject matter experts, regional entity members, or regional entity

committees shall not make determinations of noncompliance or levy penalties, sanctions, or remedial actions. Any committee involved shall be organized so that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.

- 7.4 Industry subject matter experts and regional entity members shall sign a confidentiality agreement appropriate for the activity being performed.
- 7.5 All industry subject matter experts and regional entity members participating in compliance audits and compliance investigations shall successfully complete auditor training provided by NERC or the regional entity prior to performing these activities

### **Program Design**

- 8. **Regional Entity Compliance Enforcement Program Content** — All approved reliability standards shall be included in the regional entity compliance monitoring and enforcement program for all bulk power system owners, operators, and users within the defined boundaries of the regional entity. Compliance to approved regional entity reliability standards is applicable only within the footprint of the regional entity that submitted those particular regional entity reliability standards for approval. NERC will identify the minimum set of reliability standards and requirements to be actively monitored by the regional entity in a given year.
- 9. **Antitrust Provisions** — Each regional entity’s compliance monitoring and enforcement program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
- 10. **Information Submittal** — All bulk power system owners, operators, and users within the regional entity responsible for complying with reliability standards shall submit timely and accurate information when requested by the regional entity or NERC. NERC and the regional entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
  - 10.1 Each regional entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the bulk power system owners, operators, and users the regional entity monitors.
  - 10.2 The regional entity or NERC has the authority to request information from bulk power system owners, operators, and users pursuant to section 401.3 or this section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).

- 10.3 When required or requested, the regional entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.
  - 10.4 Regional entities shall notify NERC of all possible, alleged and confirmed violations of NERC reliability standards by entities over which the regional entity has compliance monitoring and enforcement authority , in accordance with **Appendix 4C**.
  - 10.5 A bulk power system owner, operator, or user found in noncompliance with a reliability standard shall submit a mitigation plan with a timeline addressing how the noncompliance will be corrected. The regional entity compliance staff shall review and approve the mitigation plan in accordance with **Appendix 4C**.
  - 10.6 An officer of a bulk power system owner, operator, or user shall certify as accurate all compliance data self-reported to the regional entity compliance monitoring and enforcement program.
  - 10.7 Regional entities shall develop and implement procedures to verify the compliance information submitted by bulk power system owners, operators, and users.
11. **Compliance Audits of Bulk Power System Owners, Operators, and Users** — Each regional entity will maintain and implement a program of proactive compliance audits of bulk power system owners, operators, and users responsible for complying with reliability standards, in accordance with **Appendix 4C**. A compliance audit is a process in which a detailed review of the activities of a bulk power system owner, operator, or user is performed to determine if that bulk power system owner, operator, or user is complying with approved reliability standards.
- 11.1 For an entity registered as a balancing authority, reliability coordinator, or transmission operator, the compliance audit will be performed at least once every three years. For other bulk power system owners, operators, and users on the NERC Compliance Registry, compliance audits shall be performed on a schedule established by NERC.
  - 11.2 Audits of balancing authorities, reliability coordinators, and transmission operators will include a component at the audited entity’s site. For other bulk power system owners, operators, and users on the NERC Compliance Registry, the audit may be either an on-site audit or based on review of documents, as determined to be necessary and appropriate by NERC or regional entity compliance monitoring and enforcement program, staff.
  - 11.3 Compliance audits must include a detailed review of the activities of the bulk power system owner, operator, or user to determine if the bulk power system owner, operator, or user is complying with all approved reliability

standards identified for audit by NERC. The compliance audit shall include a review of supporting documentation and evidence used by the bulk power system owner, operator or user to demonstrate compliance for an appropriate period prior to the compliance audit.

12. **Confidentiality of Compliance Monitoring and Enforcement Processes** — All compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and **Appendix 4C** of these rules of procedure, unless NERC, the regional entity or FERC or another applicable governmental authority with jurisdiction determines a need to conduct a compliance monitoring and enforcement program process on a public basis, provided, that NERC and the regional entities shall publish (i) schedules of compliance audits scheduled in each year, (ii) a public report of each compliance audit, and (iii) notices of penalty and settlement agreements. Advance authorization from the applicable ERO governmental authority is required to make public any compliance monitoring and enforcement process or any information relating to a compliance monitoring and enforcement process, or to permit interventions when determining whether to impose a penalty. This prohibition on making public any compliance monitoring and enforcement process does not prohibit NERC or a regional entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the bulk power system concerning reliability and compliance matters, so long as specific allegations or conclusions regarding possible or alleged violations of reliability standards are not included in such disclosures.
13. **Critical Energy Infrastructure Information** — Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as critical energy infrastructure information. In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall be redacted according to NERC procedures and shall not be released publicly.
14. **Penalties, Sanctions, and Remedial Actions** — Each regional entity will apply all penalties, sanctions, and remedial action directives in accordance with the approved *Sanction Guidelines*, **Appendix 4B** to these rules of procedure. Any changes to the *Sanction Guidelines* to be used by any regional entity must be approved by NERC and submitted to the appropriate ERO governmental body for approval. All confirmed violations, penalties, and sanctions will be provided to NERC for review and filing with applicable ERO governmental authorities as a notice of penalty, in accordance with **Appendix 4C**.
15. **Regional Hearing Process** — Each regional entity compliance enforcement program shall establish and maintain a fair, independent, and nondiscriminatory

process for hearing contested violations and any penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these rules of procedure and any deviations therefrom that are set forth in the regional entity's delegation agreement.. The hearing process shall allow bulk power system owners, operators, and users to contest findings of compliance violations, any penalties and sanctions that are proposed to be levied, proposed remedial action directives, and components of proposed mitigation plans. The regional entity hearing process shall be conducted before the regional entity board or a balanced committee established by and reporting to the regional entity board as the final adjudicator, provided, that Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions. The regional entity hearing process shall (i) include provisions for recusal of any members of the hearing body with a potential conflict of interest, real or perceived, from all compliance matters considered by the hearing body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the hearing body after recusals.

Each regional entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each regional entity will notify NERC of the outcome of all hearings.

If a bulk power system owner, operator, or user has completed the regional entity hearing process and desires to appeal the outcome of the hearing, the bulk power system owner, operator, or user shall appeal to NERC in accordance with Section 409 of these rules of procedure, except that a determination of violation or penalty that has been directly adjudicated by an ERO governmental authority shall be appealed with that ERO governmental authority.

16. **Annual Regional Entity Compliance Enforcement Program Implementation Plan** — Each regional entity shall annually develop and submit to NERC for approval a regional entity compliance enforcement implementation plan in accordance with **Appendix 4C** that identifies the reliability standards and requirements to be actively monitored (both those required by NERC and any additional reliability standards the regional entity proposes to monitor), and how each NERC and regional entity identified standard will be monitored, evaluated, reported, sanctioned, and appealed. These implementation plans will be submitted to NERC on the schedule established by NERC, generally on or about November 1 of the preceding year. In conjunction with the annual implementation plan, each regional entity must report to NERC regarding how it carried out its delegated compliance monitoring and enforcement authority in the previous year, the effectiveness of the program, and changes expected to correct any deficiencies identified. Each regional entity will provide its annual report on the schedule established by NERC, generally on or about February 15 of the following year.

**404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users**

NERC shall monitor regional entity compliance with NERC reliability standards and, if no there is no delegation agreement in effect with a regional entity for the geographic area, shall monitor bulk power system owners, operators, and users for compliance with NERC reliability standards. Industry subject matter experts may be used as appropriate in compliance investigations, compliance audits, and other compliance activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC compliance monitoring and enforcement staff shall monitor the compliance of the regional entity with the reliability standards for which the regional entities are responsible, in accordance with **Appendix 4C**. NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected reliability standards that apply to the regional entities. NERC shall evaluate compliance and noncompliance with all of the reliability standards that apply to the regional entities and shall impose sanctions, penalties, or remedial action directives when there is a finding of noncompliance. NERC shall post all violations of reliability standards that apply to the regional entities as described in the reporting and disclosure process in **Appendix 4C**.

In addition, NERC will directly monitor bulk power system owners, operators, and users for compliance with NERC Reliability Standards in any geographic area for which there is not a delegation agreement in effect with a regional entity, in accordance with **Appendix 4C**. In such cases, NERC will serve as the Compliance Enforcement Authority described in **Appendix 4C**. Compliance matters contested by bulk power system owners, operators, and users in such an event will be heard by the NERC Compliance and Certification Committee.

2. **Compliance Audit of the Regional Entity** — NERC shall perform a compliance audit of each regional entity responsible for complying with reliability standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the audit. After due process is complete, the final audit report shall be made public in accordance with the reporting and disclosure process in **Appendix 4C**.
3. **Appeals Process** — Any regional entity or bulk-power system owner, operator or user found by NERC, as opposed to a regional entity, to be in noncompliance with a reliability standard may appeal the findings of noncompliance with reliability standards and any sanctions or remedial action directives that are issued by, or mitigation plan components imposed by, NERC, pursuant to the processes described in Sections 408 through 410.

#### **405. Monitoring of Standards and Other Requirements Applicable to NERC**

The NERC Compliance and Certification Committee shall establish and implement a process to monitor NERC's compliance with the reliability standards that apply to NERC. The process shall use independent monitors with no conflict of interest, real or perceived, in the outcomes of the process. All violations shall be made public according to the reporting and disclosure process in **Appendix 4C**. The Compliance and Certification Committee will also establish a procedure for monitoring NERC's

compliance with its Rules of Procedure for the Standards Development, Compliance Enforcement, and Organization Registration and Certification Programs. Such procedures shall not be used to circumvent the appeals processes established for those programs.

**406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program**

NERC shall provide for an independent audit of its compliance monitoring and enforcement program at least once every three years, or more frequently as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC board.

1. **Effectiveness** — The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
2. **Relationship** — The audit shall evaluate the relationship between NERC and the regional entity compliance enforcement programs and the effectiveness of the programs in ensuring reliability.
3. **Final Report Posting** — The final report shall be posted by NERC for public viewing in accordance with **Appendix 4C**.
4. **Response to Recommendations** — If the audit report includes recommendations to improve the NERC Compliance Monitoring and Enforcement Program, the administrators of the NERC Compliance Monitoring and Enforcement Program shall provide a written response and plan to the board within 30 days of the release of the final audit report.

**407. Penalties, Sanctions, and Remedial Actions**

1. **NERC Review of Regional Penalties and Sanctions** — NERC shall review all penalties, sanctions, and remedial actions imposed by each regional entity for violations of reliability standards to determine if the regional entity's determination is supported by a sufficient record compiled by the regional entity, is consistent with the *Sanction Guidelines* incorporated into these rules as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with penalties, sanctions and remedial actions imposed by the regional entity and by other regional entities for violations involving the same or similar facts and circumstances.
2. **Developing Penalties and Sanctions** — The regional entity compliance monitoring and enforcement program staff shall use the *Sanction Guidelines*, which are incorporated into these rules as **Appendix 4B**, to develop an appropriate penalty, sanction, or remedial action for a violation, and shall notify NERC of the penalty or sanction.
3. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no penalty imposed for a violation of a reliability standard shall take

effect until the thirty-first day after NERC files, with the applicable ERO governmental authority, a “notice of penalty” and the record of the proceedings in which the violation and penalty were determined, or such other date as ordered by the ERO applicable governmental authority.

**408. Review of NERC Decisions**

1. **Scope of Review** — A registered entity or a regional entity wishing to challenge a finding of noncompliance and the imposition of a penalty for a compliance measure directly administered by NERC, or a regional entity wishing to challenge a regional compliance program audit finding, may do so by filing a notice of the challenge with NERC’s director of compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by registered entities of decisions of regional entity hearing bodies shall be pursuant to section 409 .
2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.
3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the hearing body a response to the issues raised in the notice, with a copy to the regional entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The regional entity, or registered entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC’s director of compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.



7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the response, and any reply. At its discretion, the Compliance Committee may invite representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
9. **Impartiality** — No member of the Compliance and Certification Committee or the Board of Trustees Compliance Committee having an actual or perceived conflict of interest in the matter may participate in any aspect of the challenge or appeal except as a party or witness.
10. **Expenses** — Each party in the challenge and appeals processes shall pay its own expenses for each step in the process.
11. **Non-Public Proceedings** — All challenges and appeals shall be closed to the public to protect confidential information.

#### **409. Appeals from Final Decisions of Regional Entities**

1. **Time for Appeal** — An owner, operator or user of the bulk-power system wishing to appeal from a final decision of a regional entity that finds a violation of a reliability standard or imposes a penalty for violation of a reliability standard shall file its notice of appeal with NERC's director of compliance, with a copy to the regional entity, no later than 21 days after issuance of the final decision of the regional entity hearing body. The same appeal procedures will apply regardless of whether the matter first arose in a compliance investigation, compliance audit or self-report, other compliance monitoring and enforcement process, or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the regional entity hearing body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the regional entity hearing body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the regional entity shall file the entire record of the matter with NERC's director of compliance, with a copy to the entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The entity filing the appeal may file a reply to the regional entity within 7 days.

5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the regional entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the entity making the appeal and the regional entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.
7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect confidential information.

**410. Hold Harmless**

A condition of invoking the challenge or appeals processes under Section 408 or 409 is that the entity requesting the challenge or appeal agrees that neither NERC (defined to include its members, Board of Trustees, committees, subcommittees, staff and industry subject matter experts), any person assisting in the challenge or appeals processes, nor any company employing a person assisting in the challenge or appeals processes, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the challenge or appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

**411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards**

A registered entity that is subject to a requirement of a NERC critical infrastructure protection reliability standard for which technical feasibility exceptions are permitted, may request a technical feasibility exception to the requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.

## SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

### 501. Scope of the Organization Registration and Organization Certification Programs

The purpose of the Organization Registration Program is to clearly identify those entities that are responsible for compliance with the FERC approved reliability standards. Organizations that are registered are included on the NERC Compliance Registry (NCR) and are responsible for knowing the content of and for complying with all applicable reliability standards. Registered organizations are not and do not become members of NERC or a Regional Entity, by virtue of being listed on the NCR. Membership in NERC is governed by Article II of NERC's bylaws; membership in a Regional Entity or regional reliability organization is governed by that entity's bylaws or rules.

The purpose of the Organization Certification Program is to ensure that the new entity (i.e., applicant to be an RC, BA, or TOP that is not already performing the function for which it is applying to be certified as) has the tools, processes, training, and procedures to demonstrate their ability to meet the requirements/sub requirements of all of the reliability standards applicable to the function(s) for which it is applying thereby demonstrating the ability to become certified and then operational.

Organization Registration and Organization Certification may be delegated to Regional Entities in accordance with the procedures in this Section 500; the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into these rules as Appendix 5A; and, approved Regional Entity delegation agreements or other applicable agreements.

1. **NERC Compliance Registry** — NERC shall establish and maintain the NCR of the bulk power system owners, operators, and users that are subject to approved reliability standards.
  - 1.1 (a) The NCR shall set forth the identity and functions performed for each organization responsible for meeting requirements/sub-requirements of the reliability standards. Bulk power system owners, operators, and users (i) shall provide to NERC and the applicable Regional Entity information necessary to complete the registration, and (ii) shall provide NERC and the applicable Regional Entity with timely updates to information concerning the registered entity's ownership, operations, contact information, and other information that may affect the registered entity's registration status or other information recorded in the compliance registry.
  - (b) A generation or transmission cooperative, a joint-action agency or another organization may register as a Joint Registration Organization (JRO), in lieu of each of the JRO's members or related entities being registered individually for one or more functions. Refer to Section 507.

(c) Multiple entities may each register using a Coordinated Functional Registration (CFR) for one or more reliability standard(s) and/or for one or more requirements/sub-requirements within particular reliability standard(s) applicable to a specific function pursuant to a written agreement for the division of compliance responsibility. Refer to Section 508.

- 1.2 In the development of the NCR, NERC and the Regional Entities shall determine which organizations should be placed on the NCR based on the criteria provided in the NERC *Statement of Compliance Registry Criteria* which is incorporated into these rules as Appendix 5B.
- 1.3 NERC and the Regional Entities shall use the following rules for establishing and maintaining the NCR based on the registration criteria as set forth in Appendix 5B *Statement of Compliance Registry Criteria*:
  - 1.3.1 NERC shall notify each organization that it is on the NCR. The entity is responsible for compliance with all the reliability standards applicable to the functions for which it is registered from the time it receives the registration notification from NERC.
  - 1.3.2 Any organization receiving such a notice may challenge its placement on the NCR according to the process in Appendix 5A *Organization Registration and Organization Certification Manual*, Section V.
  - 1.3.3 The Compliance Committee of the Board of Trustees shall promptly issue a written decision on the challenge, including the reasons for the decision.
  - 1.3.4 The decision of the Compliance Committee of the Board of Trustees shall be final unless, within 21 days of the date of the Compliance Committee of the Board of Trustees decision, the organization appeals the decision to the applicable governmental authority.
  - 1.3.5 Each entity identified on the NCR shall notify its corresponding Regional Entity(s) of any corrections, revisions, deletions, changes in ownership, corporate structure, or similar matters that affect the entity's responsibilities with respect to the reliability standards. Failure to notify will not relieve the entity from any responsibility to comply with the reliability standards or shield it from any penalties or sanctions associated with failing to comply with the standards applicable to its associated registration.
- 1.4 For all geographical or electrical areas of the bulk power system, the registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the reliability

standards to the fullest extent practical, and (2) there is no unnecessary duplication of such coverage or of required oversight of such coverage. In particular the process shall:

- 1.4.1 Ensure that all areas are under the oversight of one and only one Reliability Coordinator.
  - 1.4.2 Ensure that all Balancing Authorities and Transmission Operator entities<sup>2</sup> are under the responsibility of one and only one Reliability Coordinator.
  - 1.4.3 Ensure that all transmission facilities of the bulk power system are the responsibility and under the control of one and only one Transmission Planner, Planning Authority, and Transmission Operator.
  - 1.4.4 Ensure that all loads and generators are under the responsibility and control of one and only one Balancing Authority.
  - 1.5 NERC shall maintain the NCR of organizations responsible for meeting the requirements/sub-requirements of the reliability standards currently in effect on its Web site and shall update the NCR monthly.
2. **Entity Certification** — NERC shall provide for certification of all entities with primary reliability responsibilities requiring certification. This includes those entities that satisfy the criteria established in the NERC Provisional Certification Process. The NERC programs shall:
- 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include Reliability Coordinators, Transmission Operators, and Balancing Authorities.
  - 2.2 Evaluate and certify each applicant's ability to meet the requirements for certification.
  - 2.3 Maintain process documentation.
  - 2.4 Maintain records of currently certified entities.
  - 2.5 Issue a certification document to the applicant that successfully demonstrates its competency to perform the evaluated functions.

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<sup>2</sup> Some organizations perform the listed functions (e.g., balancing authority, transmission operator) over areas that transcend the footprints of more than one reliability coordinator. Such organizations will have multiple registrations, with each such registration corresponding to that portion of the organization's overall area that is within the footprint of a particular reliability coordinator.

**3. Delegation and Oversight**

- 3.1 NERC may delegate responsibilities for Organization Registration and Organization Certification to Regional Entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the Regional Entity or other applicable agreement. The Regional Entity shall administer Organization Registration and Organization Certification Programs in accordance with such delegations to meet NERC's programs goals and requirements subject to NERC oversight.
- 3.2 NERC shall develop and maintain a plan to ensure the continuity of Organization Registration and Organization Certification within the geographic or electrical boundaries of a Regional Entity in the event that no entity is functioning as a Regional Entity for that region, or the Regional Entity withdraws as a Regional Entity, or does not operate its Organization Registration and Organization Certification Programs in accordance with delegation agreements.
- 3.3 NERC shall develop and maintain a program to monitor and oversee the NERC Organization Registration and Organization Certification Programs activities that are delegated to each Regional Entity through a delegation agreement or other applicable agreement.
  - 3.3.1 This program shall monitor whether the Regional Entity carries out those delegated activities in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability.
  - 3.3.2 Monitoring and oversight shall be accomplished through direct participation in the Organization Registration and Organization Certification Programs with periodic reviews of documents and records of both programs.

**502. Organization Registration and Organization Certification Program Requirements**

- 1. NERC shall maintain the Organization Registration and Organization Certification Programs.
  - 1.1 The roles and authority of Regional Entities in the programs are delegated from NERC pursuant to the Rules of Procedure through regional delegation agreements or other applicable agreements.
  - 1.2 Processes for the programs shall be administered by NERC and the Regional Entities. Materials that each Regional Entity uses are subject to review and approval by NERC.

- 1.3 The appeals process for the Organization Registration and Organization Certification Programs are identified in Appendix 5A *Organization Registration and Organization Certification Manual*, Sections V and VI, respectively.
- 1.4 The certification team membership is identified in Appendix 5A *Organization Registration and Organization Certification Manual*, Section IV.8.d.
2. To ensure consistency and fairness of the Organization Registration and Organization Certification Programs, NERC shall develop procedures to be used by all Regional Entities and NERC in accordance with the following criteria:
  - 2.1 NERC and the Regional Entities shall have data management processes and procedures that provide for confidentiality, integrity, and retention of data and information collected.
  - 2.2 Documentation used to substantiate the conclusions of the Regional Entity/ NERC related to registration and/or certification must be retained by the Regional Entity for (6) six years, unless a different retention period is otherwise identified, for the purposes of future audits of these programs.
  - 2.3 To maintain the integrity of the NERC Organization Registration and Organization Certification Programs, NERC, Regional Entities, certification team members, program audit team members (Section 506), and committee members shall maintain the confidentiality of information provided by an applicant or entities.
    - 2.2.1 NERC and the Regional Entities shall have appropriate codes of conduct and confidentiality agreements for staff, certification team, certification related committees, and certification program audit team members.
    - 2.2.2 NERC, Regional Entities, certification team members, program audit team members and committee members shall maintain the confidentiality of any registration or certification-related discussions or documents designated as confidential (see Section 1500 for types of confidential information).
    - 2.2.3 NERC, Regional Entities, certification team members, program audit team members and committee members shall treat as confidential the individual comments expressed during evaluations, program audits and report-drafting sessions.
    - 2.2.4 Copies of notes, draft reports, and other interim documents developed or used during an entity certification evaluation or program audit shall be destroyed after the public posting of a final, uncontested report.

2.2.5 Information deemed by an applicant, entity, a Regional Entity, or NERC as confidential, including critical energy infrastructure information, shall not be released publicly or distributed outside of a committee or team.

2.2.6 In the event that an individual violates any of the confidentiality rules set forth above, that individual and any member organization with which the individual is associated will be subject to immediate dismissal from the audit team and may be prohibited from future participation in compliance program activities by the Regional Entity or NERC.

2.2.7 NERC shall develop and provide training in auditing skills to all individuals prior to their participation in certification evaluations. Training for certification team leaders shall be more comprehensive than the training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.

2.4 An applicant that is determined to be competent to perform a function after completing all certification requirements shall be deemed certified by NERC to perform that function for which it has demonstrated full competency.

2.4.1 All NERC certified entities shall be included on the NCR.

### **503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements**

1. **Delegation** — Recognizing the Regional Entity’s knowledge of and experience with their members, NERC may delegate responsibility for Organization Registration and Organization Certification to the Regional Entity through a delegation agreement.

2. **Registration** — The following Organization Registration activities shall be managed by the Regional Entity per the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into the Rules of Procedure as Appendix 5A *Organization Registration and Organization Certification Manual*:

2.1 Regional entities shall verify that all Reliability Coordinators, Balancing Authorities, and Transmission Operators meet the registration requirements of Section 501(1.4).

3. **Certification** — The following Organization certification activities shall be managed by the Regional Entity in accordance with an approved delegation agreement or another applicable agreement:



- 3.1 An entity seeking certification to perform one of the functions requiring certification shall contact the Regional Entity for the region(s) in which it plans to operate to apply for certification.
- 3.2 An entity seeking certification and other affected entities shall provide all information and data requested by NERC or the Regional Entity to conduct the certification process.
- 3.3 Regional Entities shall notify NERC of all certification applicants.
- 3.4 NERC and/or the Regional Entity shall evaluate the competency of entities requiring certification to meet the NERC certification requirements.
- 3.5 NERC or the Regional Entity shall establish certification procedures to include evaluation processes, schedules and deadlines, expectations of the applicants and all entities participating in the evaluation and certification processes, and requirements for certification team members.
  - 3.5.1 The NERC / Regional Entity certification procedures will include provisions for on-site visits to the applicant's facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (including requesting a demonstration of all tools identified in the certification process), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the certification process), reviewing certification documents and projected system operator work schedules, and reviewing any additional documentation needed to support the completed questionnaire or inquiries arising during the site visit.
  - 3.5.2 The NERC/ Regional Entity certification procedures will provide for preparation of a written report by the certification team, detailing any deficiencies that must be resolved prior to granting certification, along with any other recommendations for consideration by the applicant, the Regional Entity, or NERC.

#### **504. Appeals**

1. NERC shall maintain an appeals process to resolve any disputes related to registration or certification activities per the *Organization Registration and Organization Certification Manual*, which is incorporated in these rules as Appendix 5A.
2. The Regional Entity certification appeals process shall culminate with the regional board or a committee established by and reporting to the regional board as the final adjudicator, provided that where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions.

NERC shall be notified of all appeals and may observe any proceedings (Appendix 5A *Organization Registration and Organization Certification Manual*).

**505. Program Maintenance**

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the Organization Registration and Organization Certification Programs.

**506. Independent Audit of NERC Organization Registration and Organization Certification Program**

1. NERC, through the Compliance and Certification Committee, shall provide for an independent audit of its Organization Registration and Organization Certification Programs at least once every three years, or more frequently, as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board.
2. The audit shall evaluate the success, effectiveness and consistency of the NERC Organization Registration and Organization Certification Programs.
3. The final report shall be posted by NERC for public viewing.
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response to the Board within 30 days of the final report, detailing the disposition of each and every recommendation, including an explanation of the reasons for rejecting a recommendation and an implementation plan for the recommendations accepted.

**507. Provisions Relating to Joint Registration Organizations (JRO)**

1. In addition to registering as the entity responsible for all functions that it performs itself, an entity may register as a JRO on behalf of one or more of its members or related entities for one or more functions for which such members or related entities would otherwise be required to register and, thereby, accept on behalf of such members or related entities all compliance responsibility for that function or those functions including all reporting requirements. Any entity seeking to register as a JRO must submit a written agreement with its members or related entities for all requirements/sub-requirements for the function(s) for which the entity is registering for and takes responsibility for, which would otherwise be the responsibility of one or more of its members or related entities. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the JRO registration.

2. The JRO registration data must include the same registration information as a normal compliance registration entry. The JRO is responsible for providing all of the information and data, including submitting reports, as needed by the Regional Entity for performing assessments of compliance.
3. The Regional Entity shall notify NERC of each JRO that the Regional Entity accepts. The notification will identify the point of contact and the function(s) being registered for on behalf of its members or related entities.
4. For purposes of compliance audits, the Regional Entity shall keep a list of all JROs. This document shall contain a list of each JRO's members or related entities and the function(s) for which the JRO is registered for that member(s) or related entity(s). It is the responsibility of the JRO to provide the Regional Entity with this information as well as the applicable JRO agreement(s).
5. The Regional Entity may request clarification of any list submitted to it that identifies the members of the JRO and may request such additional information as the Regional Entity deems appropriate.
6. The Regional Entity's acceptance of a JRO shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the JRO will meet the registration requirements of Section 501(1.4).
7. NERC shall maintain, and post on its Web site, a JRO registry listing all JRO registrations that have been reviewed and accepted by the Regional Entity. The posting shall identify the JRO entity taking compliance responsibilities for itself and its members.
8. The JRO shall inform the Regional Entity of any changes to an existing JRO. The Regional Entity shall promptly notify NERC of each such revision.
9. Nothing in Section 507 shall preclude a member of a JRO, a related entity, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting requirements for the reliability standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any reliability standard or requirement/sub-requirement of a reliability standard shall inform the JRO of its registration.

**508. Provisions Relating to Coordinated Functional Registration (CFR) Entities**

1. In addition to registering as an entity responsible for all functions that it performs itself, multiple entities may each register using a CFR for one or more reliability standard(s) and/or for one or more requirements/sub-requirements within particular reliability standard(s) applicable to a specific function. The CFR submission must include a written agreement that governs itself and clearly specifies the entities' respective compliance responsibilities. The registration of

the CFR is the complete registration for each entity. Additionally, each entity shall take full compliance responsibility for those standards and/or requirements/sub-requirements it has registered for in the CFR. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the CFR.

2. Each CFR or each individual entity within a CFR must identify a point of contact that is responsible for providing information and data, including submitting reports as needed by the Regional Entity related to the CFR registration.
3. The Regional Entity shall notify NERC of each CFR that the Regional Entity accepts.
4. NERC or the Regional Entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the CFR and may request such additional information as NERC or the Regional Entity deems appropriate.
5. The Regional Entity's acceptance of that CFR shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the CFR will meet the registration requirements of Section 501(1.4).
6. NERC shall maintain, and post on its Web site, a CFR registry listing all CFR registrations that have been accepted by NERC or by a Regional Entity. The posting shall clearly list all the reliability standards or requirements/sub-requirements thereof for which each entity of the CFR is responsible for under the CFR.
7. The point of contact shall inform the Regional Entity of any changes to an existing CFR. The Regional Entity shall promptly notify NERC of each such revision.
8. In the event of a violation of a reliability standard or of a requirement/sub requirement of a reliability standard for which an entity of a CFR is registered, that entity shall be identified in the notice of alleged violation and shall be assessed the sanction or penalty in accordance with the NERC Sanctions Guidelines. In the event a Regional Entity is not able to determine which entity(ies) is responsible for a particular reliability standard, or requirements/sub requirements thereof that has been violated, the Regional Entity shall investigate the noncompliance in accordance with the NERC Rules of Procedure Section 400, *Compliance Enforcement*, to determine the entity(ies) to which the Regional Entity shall to issue the sanction or penalty for the violation.
9. Nothing in Section 508 shall preclude an entity registered in a CFR, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting requirements for the reliability standards applicable to the function(s) for which the entity is registering. An entity

registered in a CFR that registers as responsible for any reliability standard or requirement/sub requirement of a reliability standard shall inform the point of contact of its registration.

## SECTION 600 — PERSONNEL CERTIFICATION

### 601. Scope of Personnel Certification

Maintaining the reliability of the bulk electric system through implementation of the reliability standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the bulk electric system. NERC, as the ERO, will ensure skilled, trained, and qualified system operators through the System Operator Certification Program.

NERC shall develop and maintain a personnel certification program to evaluate individuals and to issue credentials to individuals who demonstrate the required level of competence. A current version of such a program is the *System Operator Certification Program Manual*, which is incorporated into these rules as **Appendix 6**.

### 602. Structure of ERO Personnel Certification Program

1. The NERC personnel certification program shall be international in scope.
2. The personnel certification program shall have a governing body that (1) is able to independently exercise decision-making for all matters pertaining to certification, (2) includes individuals from the discipline being certified and whose composition addresses the needs of the users of the program (e.g., employers, regulators, etc.), and (3) has representation for each specialty or level within a discipline.
3. NERC shall maintain a nominating process for membership in the governing body. Nominations shall be open to all interested parties and self-nominations shall be accepted. The NERC Board of Trustees shall appoint members to the governing body from among those nominated. The members of the governing body shall serve at the pleasure of the board.
4. The personnel certification program governing body shall have control over the matters related to the personnel certification and recertification programs listed below, without being subject to approval by any other body.
  - 4.1 Policies and procedures, including eligibility requirements and application processing.
  - 4.2 Requirements for personnel certification, maintaining certification, and recertification.
  - 4.3 Examination content, development, and administration.
  - 4.4 Examination cut score.
  - 4.5 Grievance and disciplinary processes.

- 4.6 Governing body and subgroup(s)' meeting rules including agenda, frequency, and related procedures.
  - 4.7 Subgroup(s) appointments and work assignments.
  - 4.8 Publications about personnel certification and recertification.
  - 4.9 Setting fees for application, and all other services provided as a part of the personnel certification and recertification activities.
  - 4.10 Program funding, spending, and budget authority. Financial matters related to the operation of the program shall be segregated from other NERC activities.
5. The personnel certification program shall utilize written procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors.
  6. The personnel certification program shall be separate from the accreditation and education functions of NERC in related disciplines.
  7. No member of the personnel certification program governing body or staff member working with the personnel certification program governing body shall have or exercise any authority or responsibility for compliance matters related to reliability standards concerning personnel certification.

**603. Candidate Testing Mechanisms**

1. The personnel certification program shall utilize reliable testing mechanisms to evaluate individual competence in a manner that is objective, fair to all candidates, job-related, and based on the knowledge and skill needed to function in the discipline.
2. The personnel certification program shall implement a formal policy of periodic review of the testing mechanisms to ensure ongoing relevance of the mechanisms to knowledge and skill needed in the discipline.
3. The personnel certification program shall utilize policies and procedures to ensure that all test administration and development materials are secure and demonstrate that these policies and procedures are consistently implemented.
4. The personnel certification program shall establish pass/fail levels that protect the public with a method that is based on competence and generally accepted in the psychometric community as being fair and reasonable.
5. The personnel certification program shall conduct ongoing studies to substantiate the reliability and validity of the testing mechanisms.

6. The personnel certification program shall utilize policies and procedures that govern how long examination records are kept in their original format.
7. The personnel certification program shall demonstrate that different forms of the testing mechanisms assess equivalent content and that candidates are not penalized for taking forms of varying difficulty.

**604. Public Information About the Personnel Certification Program**

1. The personnel certification program shall provide for publishing and availability of general descriptive material on the procedures used in examination construction and validation; all eligibility requirements and determination; fees; and examination administration documents, including: reporting of results, recertification requirements, and disciplinary and grievance procedures.
2. The personnel certification program shall publish and make available a comprehensive summary or outline of the information, knowledge, or functions covered by the examination.
3. The personnel certification program shall publish and make available at least annually a summary of certification activities for the program, including at least the following information: number of examinations delivered, the number passed, the number failed, and the number certified.

**605. Responsibilities to Applicants for Certification or Recertification**

The personnel certification program:

1. Shall not discriminate among applicants as to age, gender, race, religion, national origin, disability, or marital status and shall include a statement of non-discrimination in announcements of the program.
2. Shall comply with all requirements of applicable federal and state/provincial laws with respect to all certification and recertification activities, and shall require compliance of all contractors and/or providers of services.
3. Shall make available to all applicants copies of formalized procedures for application for, and attainment of, personnel certification and recertification and shall uniformly follow and enforce such procedures for all applicants.
4. Shall implement a formal policy for the periodic review of eligibility criteria and application procedures to ensure that they are fair and equitable.
5. Shall provide competently proctored examination sites.
6. Shall uniformly report examination results to applicants in a timely manner.
7. Shall give applicants failing the examination information on general content areas of deficiency.



8. Shall implement policies and procedures providing due process for applicants questioning eligibility determination, examination results, and certification status, and shall publish this information. A current version of such a procedure is the *NERC System Operator Certification Dispute Resolution Process*, which is incorporated into these rules as part of **Appendix 6**.
9. Shall develop and maintain a program manual containing the processes and procedures for applicants for certification and recertification.

**606. Responsibilities to the Public and to Employers of Certified Practitioners**

The personnel certification program:

1. Shall demonstrate that the testing mechanisms adequately measure the knowledge and skill required for entry, maintenance, and/or advancement in the profession for each position to be certified.
2. Shall award certification and recertification only after the skill and knowledge of the individual have been evaluated and determined to be acceptable.
3. Shall periodically publish or maintain, in an electronic format, a current list of those persons certified in the programs and have policies and procedures that delineate what information about a credential holder may be made public and under what circumstances.
4. Shall have formal policies and procedures for discipline of a credential holder, including the revocation of the certificate, for conduct deemed harmful to the public or inappropriate to the discipline (e.g., incompetence, unethical behavior, physical or mental impairment affecting performance). These procedures shall incorporate due process. The current procedure is the *NERC Certified System Operator Credential Disciplinary Action Procedure*, which is incorporated into these rules as part of **Appendix 6**.
5. Shall demonstrate that any title or credential awarded accurately reflects or applies to the practitioner's daily occupational or professional duties and is not confusing to employers, consumers, regulators, related professions, and/or other interested parties.

## **SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS**

### **701 Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members**

1. All information made available or created during the course of any reliability readiness evaluation including, but not limited to, data, documents, observations and notes, shall be maintained as confidential by all evaluation team members, in accordance with the requirements of Section 1500.
2. Evaluation team members are obligated to destroy all confidential evaluation notes following the posting of the final report of the reliability readiness evaluation.
3. NERC will retain reliability readiness evaluation-related documentation, notes, and materials for a period of time as defined by NERC.
4. These confidentiality requirements shall survive the termination of the NERC Reliability Readiness Evaluation and Improvement Program.

### **702. Formation of Sector Forum**

1. NERC will form a sector forum at the request of any five members of NERC that share a common interest in the safety and reliability of the bulk power system. The members of sector forum may invite such others of the members of NERC to join the sector forum as the sector forum deems appropriate.
2. The request to form a sector forum must include a proposed charter for the sector forum. The board must approve the charter.
3. NERC will provide notification of the formation of a sector forum to its membership roster. Notices and agendas of meetings shall be posted on NERC's Web site.
4. A sector forum may make recommendations to any of the NERC committees and may submit a standards authorization request to the NERC *Reliability Standards Development Procedure*.

## **SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS**

### **801. Objectives of the Reliability Assessment and Performance Analysis Program**

The objectives of the NERC reliability assessment and performance analysis program are to: (1) conduct, and report the results of, an independent assessment of the overall reliability and adequacy of the interconnected North American bulk power systems, both as existing and as planned; (2) analyze off-normal events on the bulk power system; (3) identify the root causes of events that may be precursors of potentially more serious events; (4) assess past reliability performance for lessons learned; (5) disseminate findings and lessons learned to the electric industry to improve reliability performance; and (6) develop reliability performance benchmarks. The final reliability assessment reports shall be approved by the board for publication to the electric industry and the general public.

### **802. Scope of the Reliability Assessment Program**

1. The scope of the reliability assessment program shall include:
  - 1.1 Review, assess, and report on the overall electric generation and transmission reliability (adequacy and operating reliability) of the interconnected bulk power systems, both existing and as planned.
  - 1.2 Assess and report on the key issues, risks, and uncertainties that affect or have the potential to affect the reliability of existing and future electric supply and transmission.
  - 1.3 Review, analyze, and report on regional self-assessments of electric supply and bulk power transmission reliability, including reliability issues of specific regional concern.
  - 1.4 Identify, analyze, and project trends in electric customer demand, supply, and transmission and their impacts on bulk power system reliability.
  - 1.5 Investigate, assess, and report on the potential impacts of new and evolving electricity market practices, new or proposed regulatory procedures, and new or proposed legislation (e.g. environmental requirements) on the adequacy and operating reliability of the bulk power systems.
2. The reliability assessment program shall be performed in a manner consistent with the reliability standards of NERC including but not limited to those that specify reliability assessment requirements.

### **803. Reliability Assessment Reports**

The number and type of periodic assessments that are to be conducted shall be at the discretion of NERC. The results of the reliability assessments shall be documented in three reports: the long-term and the annual seasonal (summer) and the annual seasonal (winter) assessment reports. NERC shall also conduct special reliability assessments from time to time as circumstances warrant. The reliability assessment reports shall be reviewed and approved for publication by the board. The three regular reports are described below.

1. **Long-Term Reliability Assessment Report** — The annual long-term report shall cover a ten-year planning horizon. The planning horizon of the long-term reliability assessment report shall be subject to change at the discretion of NERC. Detailed generation and transmission adequacy assessments shall be conducted for the first five years of the review period. For the second five years of the review period, the assessment shall focus on the identification, analysis, and projection of trends in peak demand, electric supply, and transmission adequacy, as well as other industry trends and developments that may impact future electric system reliability. Reliability issues of concern and their potential impacts shall be presented along with any mitigation plans or alternatives. The long-term reliability assessment reports will generally be published in the fall (September) of each year. NERC will also publish electricity supply and demand data associated with the long-term reliability assessment report.
2. **Summer Assessment Report** — The annual summer seasonal assessment report typically shall cover the four-month (June–September) summer period. It shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected summer peak demands. It shall also identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may include possible mitigation alternatives. The report will generally be published in mid-May for the upcoming summer period.
3. **Winter Assessment Report** — The annual winter seasonal assessment report shall cover the three-month (December–February) winter period. The report shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected winter peak demands. Similar to the summer assessment, the winter assessment shall identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may also include possible mitigation alternatives. The winter assessment report will generally be published in mid-November for the upcoming winter period.
4. **Special Reliability Assessment Reports** — In addition to the long-term and seasonal reliability assessment reports, NERC shall also conduct special reliability assessments on a regional, interregional, and interconnection basis as conditions warrant, or as requested by the board or applicable governmental authorities. The teams of reliability and technical experts also may initiate special assessments of

key reliability issues and their impacts on the reliability of a regions, subregions, or interconnection (or a portion thereof). Such special reliability assessments may include, among other things, operational reliability assessments, evaluations of emergency response preparedness, adequacy of fuel supply, hydro conditions, reliability impacts of new or proposed environmental rules and regulations, and reliability impacts of new or proposed legislation that affects or has the potential to affect the reliability of the interconnected bulk power systems in North America.

#### **804. Reliability Assessment Data and Information Requirements**

To carry out the reviews and assessments of the overall reliability of the interconnected bulk power systems, the regional entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

Some of the data provided for these reviews and assessment may be considered confidential from a competitive marketing perspective, a critical energy infrastructure information perspective, or for other purposes. Such data shall be treated in accordance with the provisions of Section 1500 – Confidential Information.

While the major sources of data and information for this program are the regional entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the bulk power systems.

In connection with the reliability assessment reports, requests shall be submitted to each of the regional entities for required reliability assessment data and other information, and for each region's self-assessment report. The timing of the requests will be governed by the schedule for the preparation of the assessment reports.

The regional self-assessments are to be conducted in compliance with NERC standards and the respective regional planning criteria. The team(s) of reliability and technical experts shall also conduct interviews with the regional entities as needed. The summary of the regional self-assessments that are to be included in the assessment reports shall follow the general outline identified in NERC's request. This outline may change from time to time as key reliability issues change.

In general, the regional reliability self-assessments shall address, among other areas, the following topics: demand and net energy for load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to load; and any other reliability issues in the region and their potential impacts on the reliability of the bulk power systems.

## **805. Reliability Assessment Process**

Based on their expertise, the review of the collected data, the review of the regional self-assessment reports, and interviews with the regional entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each region's existing and planned bulk power system. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

1. **Resource Adequacy Assessment** — The teams shall evaluate the regional demand and resource capacity data for completeness in the context of the overall resource capacity needs of the region. The team shall independently evaluate the ability of the regional entity members to serve their obligations given the demand growth projections, the amount of existing and planned capacity, including committed and uncommitted capacity, contracted capacity, or capacity outside of the region. If the region relies on capacity from outside of the region to meet its resource objectives, the ability to deliver that capacity shall be factored into the assessment. The demand and resource capacity information shall be compared to the resource adequacy requirements of the regional entity for the year(s) or season(s) being assessed. The assessment shall determine if the resource information submitted represents a reasonable and attainable plan for the regional entity and its members. For cases of inadequate capacity or reserve margin, the regional entity will be requested to analyze and explain any resource capacity inadequacies and its plans to mitigate the reliability impact of the potential inadequacies. The analysis may be expanded to include surrounding areas. If the expanded analysis indicates further inadequacies, then an interregional problem may exist and will be explored with the applicable regions. The results of these analyses shall be described in the assessment report.
2. **Transmission Adequacy and Operating Reliability Assessment** — The teams shall evaluate transmission system information that relates to the adequacy and operating reliability of the regional transmission system. That information shall include: regional planning study reports, interregional planning study reports, and/or regional operational study reports. If additional information is required, another data request shall be sent to the regional entity. The assessment shall provide a judgment on the ability of the regional transmission system to operate reliably under the expected range of operating conditions over the assessment period as required by NERC reliability standards. If sub-areas of the regional system are especially critical to the reliable operation of the regional bulk transmission system, these facilities or sub-areas shall be reviewed and addressed in the assessment. Any areas of concern related to the adequacy or operating reliability of the system shall be identified and reported in the assessment.
3. **Seasonal Operating Reliability Assessment** — The team(s) shall evaluate the overall operating reliability of the regional bulk transmission systems. In areas with potential resource adequacy or system operating reliability problems, operational readiness of the affected regional entities for the upcoming season

shall be reviewed and analyzed. The assessment may consider unusual but possible operating scenarios and how the system is expected to perform. Operating reliability shall take into account a wide range of activities, all of which should reinforce the regional entity's ability to deal with the situations that might occur during the upcoming season. Typical activities in the assessment may include: facility modifications and additions, new or modified operating procedures, emergency procedures enhancement, and planning and operating studies. The teams shall report the overall seasonal operating reliability of the regional transmission systems in the annual summer and winter assessment reports.

4. **Reporting of Reliability Assessment Results** — The teams of reliability and technical experts shall provide an independent assessment of the reliability of the regional entities and the North American interconnected bulk power system for the period of the assessment. While the regional entities are relied upon to provide the information to perform such assessments, the review team is not required to accept the conclusions provided by the regional entities. Instead, the review team is expected, based on their expertise, to reach their own independent conclusions about the status of the adequacy of the generation and bulk power transmission systems of North America.

The review team also shall strive to achieve consensus in their assessments. The assessments that are made are based on the best information available at the time. However, since judgment is applied to this information, legitimate differences of opinion can develop. Despite these differences, the review team shall work to achieve consensus on their findings.

In addition to providing long-term and seasonal assessments in connection with the reliability assessment program, the review team of experts shall also be responsible for recommending new and revised reliability standards related to the reliability assessments and the reliability of the bulk power systems. These proposals for new or revised standards shall be entered into NERC's Standards Development Process.

Upon completion of the assessment, the team shall share the results with the regional entities. The regional entities shall be given the opportunity to review and comment on the conclusions in the assessment and to provide additional information as appropriate. The reliability assessments and their conclusions are the responsibility of NERC's technical review team and NERC.

The preparation and approval of NERC's reliability assessment reports shall follow a prescribed schedule including review, comment, and possible approval by appropriate NERC committees. The long-term and seasonal (summer and winter) reliability assessment reports shall be further reviewed for approval by the board for publication to the electric industry.

**806. Scope of the Reliability Performance and Analysis Program**

The components of the program will include analysis of large-scale outages, disturbances, and near misses to determine root causes and lessons learned; identification and continuous monitoring of performance indices to detect emerging trends and signs of a decline in reliability performance; and communications of performance results, trends, recommendations, and initiatives to those responsible to take actions; followed with confirmation of actions to correct any deficiencies identified. Within NERC, the reliability performance program will provide performance results to the standards development and compliance enforcement programs to make the necessary adjustments to preserve reliability based on a risk-based approach.

**807. Analysis of Major Events**

Responding to major blackouts and other system disturbances or emergencies can be divided into four phases: situational assessment and communications; situation tracking and communications; data collection, investigation, analysis, and reporting; and follow-up on recommendations.

- a. NERC's role following a blackout or other major bulk power system disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the regional entities and reliability coordinators, NERC will coordinate and facilitate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.
- b. When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its activities with them.
- c. Each user, owner, and operator of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.
- d. During the conduct of some NERC analyses, assistance may be needed from government agencies. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; investigations related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies.
- e. NERC shall work with other participants to establish a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the investigation and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the bulk power system with the objective of avoiding, to the extent possible, multiple investigations of the same event. If the event is confined to a single regional



entity, NERC representatives will participate as members of the regional entity analysis team.

- f. NERC and applicable entity(s) shall apply the NERC *Blackout and Disturbance Response Procedures*, which are incorporated into these rules as **Appendix 8**. These procedures provide a framework to guide NERC's response to events that may have multiregional, national, or international implications. Experienced industry leadership shall be applied to tailor the response to the specific circumstances of the event. In accordance with that procedure, the NERC president will determine whether the event warrants analysis at the NERC-level. A regional entity may request that NERC elevate any analysis to a NERC level.
- g. NERC will screen and analyze the findings and recommendations from the analysis, and those with generic applicability will be disseminated to the industry in accordance with section 810.

**808. Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance**

- 1. NERC and regional entities shall analyze system and equipment performance events that do not rise to the level of a major blackout, disturbance, or system emergency, as described in section 807. NERC and regional entities shall also analyze potential vulnerabilities in the bulk power system brought to their attention by government agencies. The purpose of these analyses is to identify the root causes of events that may be precursors of potentially more serious events or that have the potential to cause more serious events, to assess past reliability performance for lessons learned, and to develop reliability performance benchmarks and trends.
- 2. NERC and regional entities will screen and analyze events and potential vulnerabilities for significance, and information from those with generic applicability will be disseminated to the industry in accordance with section 810.
- 3. Each user, owner, and operator, of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.

**809. Reliability Benchmarking**

NERC shall identify and track key reliability indicators as a means of benchmarking reliability performance and measuring reliability improvements. This program will include assessing available metrics, developing guidelines for acceptable metrics, maintaining a performance metrics “dashboard” on the NERC Web site, and developing appropriate reliability performance benchmarks.

**810. Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions**

1. Members of NERC and bulk power system owners, operators, and users shall provide NERC with detailed and timely operating experience information and data.
2. In the normal course of operations, NERC disseminates the results of its events analysis findings, lessons learned and other analysis and information gathering to the industry. These findings, lessons learned and other information will be used to guide the reliability assessment program.
3. When NERC determines it is necessary to place the industry or segments of the industry on formal notice of its findings, analyses, and recommendations, NERC will provide such notification in the form of specific operations or equipment Advisories, Recommendations or Essential Actions:
  - 3.1 Level 1 (Advisories) – purely informational, intended to advise certain segments of the owners, operators and users of the bulk power system of findings and lessons learned;
  - 3.2 Level 2 (Recommendations) – specific actions that NERC is recommending be considered on a particular topic by certain segments of owners, operators, and users of the bulk power system according to each entity’s facts and circumstances;
  - 3.3 Level 3 (Essential Actions) – specific actions that NERC has determined are essential for certain segments of owners, operators, or users of the bulk power system to take to ensure the reliability of the bulk power system. Such Essential Actions require NERC board approval before issuance.
4. The bulk power system owners, operators, and users to which Level 2 (Recommendations) and Level 3 (Essential Actions) notifications apply are to evaluate and take appropriate action on such issuances by NERC. Such bulk power system owners, operators, and users shall also provide reports of actions taken and timely updates on progress towards resolving the issues raised in the Recommendations and Essential Actions in accordance with the reporting date(s) specified by NERC.
5. NERC will advise the Commission and other applicable governmental authorities of its intent to issue all Level 1 Advisories, Level 2 Recommendations, and Level 3 Essential Actions at least five (5) business days prior to issuance, unless extraordinary circumstances exist that warrant issuance less than five (5) business days after such advice. NERC will file a report with the Commission and other applicable governmental authorities no later than thirty (30) days following the date by which NERC has requested the bulk power system owners, operators, and users to which a Level 2 Recommendation or Level 3 Essential Action issuance applies to provide reports of actions taken in response to the notification.

NERC's report to the Commission and other applicable governmental authorities will describe the actions taken by the relevant owners, operators, and users of the bulk power system and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for confidential or critical infrastructure information.

**811. Equipment Performance Data**

Through its Generating Availability Data System (GADS), NERC shall collect operating information about the performance of electric generating equipment; provide assistance to those researching information on power plant outages stored in its database; and support equipment reliability as well as availability analyses and other decision-making processes developed by GADS subscribers. GADS data is also used in conducting assessments of generation resource adequacy.

## **SECTION 900 — TRAINING AND EDUCATION**

### **901. Scope of the Training and Education Program**

Maintaining the reliability of the bulk electric system through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for bulk power system personnel and regulators to obtain the essential knowledge necessary to understand and operate the bulk electric system.

NERC shall develop and maintain training and education programs for the purpose of establishing training requirements, developing materials, and developing training activities. The target audience of the training and education programs shall be bulk power system operating personnel including system operations personnel, operations support personnel (engineering and information technology), supervisors and managers, training personnel, and other personnel directly responsible for complying with NERC reliability standards who, through their actions or inactions, may impact the real-time, or day-ahead reliability of the bulk power system.

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed reliability standards or compliance requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted bulk power system personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist bulk power system entities implementing new or revised reliability standard requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and regional entity evaluations, audits, and investigations for the compliance enforcement program, organization certification program, and the continuing education program.

### **902. Continuing Education Program**

NERC shall develop and maintain a continuing education program to foster the improvement of training and to promote quality in the training programs used by and

implemented by bulk power system entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

1. NERC shall develop and implement continuing education program requirements that promote excellence in training programs and advance improved performance for bulk system personnel identified in Section 901.
2. NERC shall develop and maintain a process to approve or accredit continuing education providers and activities seeking approval or accreditation and meeting NERC-approved continuing education requirements.
3. NERC shall perform periodic audits on continuing education providers and training activities to ensure that the approved or accredited providers and training activities satisfy NERC continuing education requirements.
4. NERC shall develop and maintain an appeals process for disputed application reviews, interpretations of guidelines and standards, probation or suspension of NERC-approved provider status, or continuing education hour disputes.

## **SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY**

### **1001. Situation Awareness**

NERC shall through the use of reliability coordinators and available tools, monitor present conditions on the bulk power system and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

1. Maintain real-time situation awareness of conditions on the bulk power system;
2. Notify the industry of significant bulk power system events that have occurred in one area, and which have the potential to impact reliability in other areas;
3. Maintain and strengthen high-level communication, coordination, and cooperation with governments and government agencies regarding real-time conditions; and
4. Enable the reliable operation of interconnected bulk power systems by facilitating information exchange and coordination among reliability service organizations.

### **1002. Reliability Support Services**

NERC will provide tools and other support services for the benefit of reliability coordinators and other system operators, including the Area Control Error (ACE) and Frequency Monitoring System, NERC Hotline, Real-time Flows, System Data Exchange (SDX), Reliability Coordinator Information System (RCIS), Transmission Services Information Network (TSIN), Interchange Distribution Calculator (IDC), Interregional Security Network (ISN), and Central Repository for Security Events (CRC). To accomplish this goal, NERC will:

1. Maintain the reliability and effectiveness of all mission-critical operating reliability support systems and services;
2. Continue to support maintenance of a transmission provider curtailment report on the CRC site in response to Federal Energy Regulatory Commission Order 605;
3. Investigate and analyze the use of high-speed real-time system measurements, including phasors, in predicting the behavior and performance of the Eastern Interconnection; and
4. Facilitate real-time voice and data exchange services among reliability coordinators (e.g., Hotline, Interregional Security Network, NERCnet, System Data Exchange, etc.).

### **1003. Infrastructure Security Program**

NERC shall coordinate electric industry activities to promote critical infrastructure protection of the bulk power system in North America by taking a leadership role in critical infrastructure protection of the electricity sector so as to reduce vulnerability and

improve mitigation and protection of the electricity sector's critical infrastructure. To accomplish these goals, NERC shall perform the following functions.

1. Electric Sector Information Sharing and Analysis Center (ESISAC)
  - 1.1 NERC shall serve as the electricity sector's Sector Coordinator and operate its Information Sharing and Analysis Center to gather information and communicate security-related threats and incidents within the sector, with United States and Canadian government agencies, and with other critical infrastructure sectors.
  - 1.2 NERC shall improve the capability of the ESISAC to analyze security threats and incident information and provide situational assessments for the electricity sector and governments.
  - 1.3 NERC shall work closely with the United States Department of Homeland Security, Department of Energy, Natural Resources Canada, and Public Safety and Emergency Preparedness Canada.
  - 1.4 NERC shall strengthen and expand these functions and working relationships with the electricity sector, other critical infrastructure industries, governments, and government agencies throughout North America to ensure the protection of the infrastructure of the bulk power system.
  - 1.5 NERC shall fill the role of the Electricity Sector Coordinating Council and coordinate with the Government Coordinating Council.
  - 1.6 NERC shall coordinate with other critical infrastructure sectors through active participation with the other Sector Coordinating Councils, the other ISACs, and the National Infrastructure Advisory Committee.
  - 1.7 NERC shall encourage and participate in coordinated critical infrastructure protection exercises, including interdependencies with other critical infrastructure sectors.
2. Security Planning
  - 2.1 NERC shall take a risk management approach to critical infrastructure protection, considering probability and severity, and recognizing that mitigation and recovery can be practical alternatives to prevention.
  - 2.2 NERC shall keep abreast of the changing threat environment through collaboration with government agencies.
  - 2.3 NERC shall develop criteria to identify critical physical and cyber assets, assess security threats, identify risk assessment methodologies, and assess effectiveness of physical and cyber protection measures.

- 2.4 NERC shall enhance and maintain the bulk power system critical spare transformer program, encourage increased participation by asset owners, and continue to assess the need to expand this program to include other critical bulk power system equipment.
- 2.5 NERC shall support implementation of the Cyber Security Standards through education and outreach.
- 2.6 NERC shall review and improve existing Security Guidelines, develop new Security Guidelines to meet the needs of the electricity sector, and consider whether any guidelines should be developed into standards.
- 2.7 NERC shall conduct education and outreach initiatives to increase awareness and respond to the needs of the electricity sector.
- 2.8 NERC shall strengthen relationships with federal, state, and provincial government agencies on critical infrastructure protection matters.
- 2.9 NERC shall maintain and improve mechanisms for the sharing of sensitive or classified information with federal, state, and provincial government agencies on critical infrastructure protection matters; work with DOE and DHS to implement the National Infrastructure Protection Plan, as applicable to the electricity sector; and coordinate this work with PSEPC.
- 2.10 NERC shall improve methods to better assess the impact of a possible physical attack on the bulk power system and means to deter, mitigate, and respond following an attack.
- 2.11 NERC shall assess the results of vulnerability assessments and enhance the security of System Control and Data Acquisition (SCADA) and process control systems by developing methods to detect an emerging cyber attack and the means to mitigate impacts on the bulk power systems.
- 2.12 NERC shall work with the National SCADA Test Bed and the Process Control Systems Forum to accelerate the development of technology that will enhance the security, safety, and reliability of process control and SCADA systems.



## **SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS**

### **1101. Scope of Business Plans and Budgets**

The board shall determine the content of the budgets to be submitted to the applicable ERO governmental authorities with consultation from the members of the Members Representatives Committee, regional entities, and others in accordance with the bylaws. The board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

### **1102. NERC Funding and Cost Allocation**

1. In order that NERC's costs shall be fairly allocated among interconnections and among regional entities, the NERC funding mechanism for all statutory functions shall be based on net energy for load (NEL).
2. NERC's costs shall be allocated so that all load (or, in the case of costs for an interconnection or regional entity, all load within that interconnection or regional entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or regional entities thereof for which NERC has been designated or recognized as the electric reliability authority.
4. Costs incurred to accomplish the statutory functions for one interconnection, regional entity, or group of entities will be directly assigned to that interconnection, regional entity, or group of entities provided that such costs are allocated equitably to end-users based on net energy for load.

### **1103. NERC Budget Development**

1. The NERC annual budget process shall be scheduled and conducted for each calendar year so as to allow a sufficient amount of time for NERC to receive member inputs, develop the budget, and receive board and, where authorized by applicable legislation or agreement, ERO governmental authority approval of the NERC budget for the following fiscal year, including timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.
2. The NERC budget submittal to ERO governmental authorities shall include provisions for all ERO functions, all regional entity delegated functions as specified in delegation agreements and reasonable reserves and contingencies.
3. The NERC annual budget submittal to ERO governmental authorities shall include description and explanation of NERC's proposed ERO program activities for the year; budget component justification based on statutory or other authorities; explanation of how each budgeted activity lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources

provided for in the budget to carry out the ERO program responsibilities; explanation of the calculations and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other ERO governmental authorities having authority to approve the proposed budget.

4. NERC shall develop, in consultation with the regional entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and regional entity level by the applicable ERO governmental authorities.

#### **1104. Submittal of Regional Entity Budgets to NERC**

1. Each regional entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the regional entities, which shall provide for the regional entity to submit its final budget that has been approved by its board of directors or other governing body no later than July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the regional entity budget by the NERC Board of Trustees in time for the NERC and regional budgets to be submitted to FERC and other ERO governmental authorities for approval in accordance with their regulations. The regional entity's budget shall include supporting materials in accordance with the budget and reporting format developed by NERC and the regional entities, including the regional entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each regional entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each regional entity budget for filing.
3. NERC shall also have the right to review from time to time, in reasonable intervals but no less frequently than every three years, the financial books and records of each regional entity having delegated authority in order to ensure that the documentation fairly represents in all material respects appropriate funding of delegated functions.

#### **1105. Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval**

1. NERC shall file for approval by the applicable ERO governmental authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and regional entity budgets including the business plans and organizational charts approved by the board, (2) NERC's annual funding requirement (including regional entity costs for delegated functions), and (3) the

mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.

2. NERC shall seek approval from each governmental authority requiring such approval for the funding requirements necessary to perform ERO activities within their jurisdictions.

**1106. NERC and Regional Entity Billing and Collections**

1. NERC shall request the regional entities to identify all load-serving entities<sup>3</sup> within each regional entity and the NEL assigned to each load-serving entity, and the regional entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the compliance registry.
2. NERC shall accumulate the NEL by load-serving entities for each ERO governmental authority and submit the proportional share of NERC funding requirements to each ERO governmental authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by balancing authorities within a region shall be used to rationalize and validate amounts allocated for collection through regional entity processes.
4. The billing and collection processes shall provide:
  - 4.1 A clear validation of billing and application of payments.
  - 4.2 A minimum of data requests to those being billed.
  - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
  - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by applicable ERO governmental authorities (including the funds required to support those functions assigned to the regional entities through the delegation agreements) directly from the load-serving entities or their designees or as directed by particular ERO governmental authorities, except where the regional entity is required to collect the budget requirements for NERC, in which case the regional entity will collect directly from the load-serving entities or as otherwise provided by agreement and

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<sup>3</sup> A regional entity may allocate funding obligations using an alternative method approved by NERC and by FERC and other appropriate ERO governmental authorities, as provided for in the regional delegation agreement.

submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a regional entity managed collection mechanism.

6. NERC shall set a minimum threshold limit on the billing of small LSEs to minimize the administrative burden of collection.
7. NERC shall pursue any non-payments and shall request assistance from applicable governmental authorities as necessary to secure collection.
8. In the case where a Regional Entity performs the collection for ERO, the Regional Entity will not be responsible for non-payment in the event that a user, owner or operator of the Bulk Power System does not pay its share of dues, fees and charges in a timely manner, provided that such a Regional Entity shall use reasonably diligent efforts to collect dues, fees, and other charges from all entities obligated to pay them. However, any revenues not paid shall be recovered from others within the same region to avoid cross-subsidization between regions.
9. Both NERC and the regional entities also may bill members or others for functions and services not within statutory requirements or otherwise authorized by the appropriate governmental authorities. Costs and revenues associated with these functions and services shall be separately identified and not commingled with billings associated with the funding of NERC or of the regional entities for delegated activities.

#### **1107. Penalty Applications**

1. Where NERC or a regional entity initiates a compliance monitoring and enforcement process that leads to imposition of a penalty, the entity that initiated the process shall receive any penalty monies imposed and collected as a result of that process, unless a different disposition of the penalty monies is provided for in the delegation agreement, or in a contract or a disposition of the violation that is approved by NERC and FERC.
2. All funds from financial penalties assessed in the United States received by the entity initiating the compliance monitoring and enforcement process shall be applied as a general offset to the entity's budget requirements for the subsequent fiscal year, if received by July 1, or for the second subsequent fiscal year, if received on or after July 1. Funds from financial penalties shall not be directly applied to any program maintained by the entity conducting the compliance monitoring and enforcement process. Funds from financial penalties assessed against a Canadian entity shall be applied as specified by legislation or agreement.
3. In the event that a compliance monitoring and enforcement process is conducted jointly by NERC and a regional entity, the regional entity shall receive the penalty monies and offset the entity's budget requirements for the subsequent fiscal year.
4. Exceptions or alternatives to the foregoing provisions will be allowed if approved by NERC and by FERC any other applicable ERO governmental authority.

**1108. Special Assessments**

On a demonstration of unforeseen and extraordinary circumstances requiring additional funds prior to the next funding cycle, NERC shall file with the applicable ERO governmental authorities, where authorized by applicable legislation or agreement, for authorization for an amended or supplemental budget for NERC or a regional entity and, if necessary under the amended or supplemental budget, to collect a special or additional assessment for statutory functions of NERC or the regional entity. Such filing shall include supporting materials to justify the requested funding, including any departure from the approved funding formula or method.

## **SECTION 1200 — REGIONAL DELEGATION AGREEMENTS**

### **1201. Pro Forma Regional Delegation Agreement**

NERC shall develop and maintain a pro forma regional entity delegation agreement, which shall serve as the basis for negotiation of consistent agreements for the delegation of ERO functions to regional entities.

### **1202. Regional Entity Essential Requirements**

NERC shall establish the essential requirements for an entity to become qualified and maintain good standing as a regional entity.

### **1203. Negotiation of Regional Delegation Agreements**

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American bulk power systems are within a regional entity area. In the event NERC is unable to reach agreement with regional entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the appropriate ERO governmental authority.

### **1204. Conformance to Rules and Terms of Regional Delegation Agreements**

NERC and each regional entity shall comply with all applicable ERO rules of procedure and the obligations stated in the regional delegation agreement.

### **1205. Sub-delegation**

The regional entity shall not sub-delegate any responsibilities and authorities delegated to it by its regional delegation agreement with NERC except with the approval of NERC and FERC and other appropriate ERO governmental authorities. Responsibilities and authorities may only be sub-delegated to another regional entity. Regional entities may share resources with one another so long as such arrangements do not result in cross-subsidization or in any sub-delegation of authorities.

### **1206. Nonconformance to Rules or Terms of Regional Delegation Agreement**

If a regional entity is unable to comply or is not in compliance with an ERO rule of procedure or the terms of the regional delegation agreement, the regional entity shall immediately notify NERC in writing, describing the area of nonconformance and the reason for not being able to conform to the rule. NERC shall evaluate each case and inform the affected regional entity of the results of the evaluation. If NERC determines that a rule or term of the regional delegation agreement has been violated by an entity or cannot practically be implemented by an entity, NERC shall notify the applicable ERO governmental authorities and take any actions necessary to address the situation.

**1207. Regional Entity Audits**

Approximately every five years and more frequently if necessary for cause, NERC shall audit each regional entity to verify that the regional entity continues to comply with NERC rules of procedure and the obligations of NERC delegation agreement. Audits of regional entities shall be conducted, to the extent practical, based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, and if applicable to the coverage of the audit, may be based on Canadian or other international standards. The audits required by this section 1207 shall not duplicate the audits of regional entity compliance monitoring and enforcement programs provided for in **Appendix 4A**, Audit of Regional Compliance Programs, to these rules of procedure.

**1208. Process for Considering Registered Entity Requests to Transfer to Another Regional Entity Audits**

1. A registered entity that is registered in the region of one regional entity and believes its registration should be transferred to a different regional entity may submit a written request to both regional entities requesting that they process the proposed transfer in accordance with this section. The registered entity's written request shall set forth the reasons the registered entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other bulk power system owners, operators, and users.
2. After receiving the registered entity's written request, the two regional entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The regional entities may also consult with affected reliability coordinators, balancing authorities and transmission operators as appropriate. Each regional entity shall post the request on its web site for public comment period of 21 days. In evaluating the proposed transfer, the regional entities shall consider the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other load-serving entities of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current regional entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity would be transitioned from the current regional entity to the transferee regional entity; along with any other reasons for the proposed transfer stated by the registered entity and any other reasons either regional entity considers relevant. The regional entities may request that the registered entity provide additional data and information concerning the proposed transfer for the regional entities' use in their evaluation. The registered entity's

current regional entity shall notify the registered entity in writing as to whether (i) the two regional entities agree that the requested transfer is appropriate, (ii) the two regional entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two regional entities disagree as to whether the proposed transfer is appropriate.

3. If the two regional entities agree that the requested transfer is appropriate, they shall submit a joint written request to NERC requesting that the proposed transfer be approved and that the delegation agreement between NERC and each of the regional entities be amended accordingly. The regional entities' joint written submission to NERC shall describe the reasons for the proposed transfer; the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators, and users; the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current registered entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity will be transitioned from the current regional entity to the transferee regional entity. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision. If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.
4. If the two regional entities do not agree with each other that the proposed transfer is appropriate, the regional entity supporting the proposed transfer shall, if requested by the registered entity, submit a written request to NERC to approve the transfer and the related delegation agreement amendments. The regional entity's written request shall include the information specified in section 1208.3. The regional entity that does not believe the proposed transfer is appropriate will be allowed to submit a written statement to NERC explaining why the regional entity believes the transfer is not appropriate and should not be approved. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision.



If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

5. Prior to action by the NERC Board of Trustees on a proposed transfer of registration under Section 1208.3 or 1208.4, NERC shall post information concerning the proposed transfer, including the submissions from the regional entities, on its Web site for at least twenty-one (21) days for the purpose of receiving public comment.
6. If the NERC Board of Trustees disapproves a proposed transfer presented to it pursuant to either section 1208.3 or 1208.4, the regional entity or entities that believe the transfer is appropriate may, if requested to do so by the registered entity, file a petition with FERC pursuant to 18 C.F.R. section 39.8(f) and (g) requesting that FERC order amendments to the delegation agreements of the two regional entities to effectuate the proposed transfer.
7. No transfer of a registered entity from one regional entity to another regional entity shall be effective (i) unless approved by FERC, and (ii) any earlier than the first day of January of the second calendar year following approval by FERC, unless an earlier effective date is agreed to by both regional entities and NERC and approved by FERC.

## **SECTION 1300 — COMMITTEES**

### **1301. Establishing Standing Committees**

The board may from time to time create standing committees. In doing so, the board shall approve the charter of each committee and assign specific authority to each committee necessary to conduct business within that charter. Each standing committee shall work within its board-approved charter and shall be accountable to the board for performance of its board-assigned responsibilities. A NERC standing committee may not delegate its assigned work to a member forum, but, in its deliberations, may request the opinions of and consider the recommendations of a member forum.

### **1302. Committee Membership**

Each committee shall have a defined membership composition that is explained in its charter. Committee membership may be unique to each committee, and can provide for balanced decision-making by providing for representatives from each sector or, where sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area, by bringing together a wide diversity of opinions from industry experts with outstanding technical knowledge and experience in a particular subject area. Committee membership shall also provide the opportunity for an equitable number of members from the United States and Canada, based approximately on proportionate net energy for load. All committees and other subgroups (except for those organized on other than a sector basis because sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area) must ensure that no two stakeholder sectors are able to control the vote on any matter, and no single sector is able to defeat a matter. With regard to committees and subgroups pertaining to development of, interpretation of, or compliance with standards, NERC shall provide a reasonable opportunity for membership from sectors desiring to participate. Committees and subgroups organized on other than a sector basis shall be reported to the NERC board and the Member Representatives Committee, along with the reasons for constituting the committee or subgroup in the manner chosen. In such cases and subject to reasonable restrictions necessary to accomplish the mission of such committee or subgroup, NERC shall provide a reasonable opportunity for additional participation, as members or official observers, for sectors not represented on the committee or subgroup.

### **1303. Procedures for Appointing Committee Members**

Committee members shall be nominated and selected in a manner that is open, inclusive, and fair. Unless otherwise stated in these rules or approved by the board, all committee member appointments shall be approved by the board, and committee officers shall be appointed by the Chairman of the Board.

### **1304. Procedures for Conduct of Committee Business**

1. Notice to the public of the dates, places, and times of meetings of all committees, and all nonconfidential material provided to committee members, shall be posted

on the Corporation's Web site at approximately the same time that notice is given to committee members. Meetings of all standing committees shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to personnel matters, compliance enforcement matters, litigation, or commercially sensitive or critical infrastructure information of any entity.

2. NERC shall maintain a set of procedures, approved by the board, to guide the conduct of business by standing committees.

**1305. Committee Subgroups**

Standing committees may appoint subgroups using the same principles as in Section 1302.

## **SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE**

### **1401. Proposals for Amendment or Repeal of Rules of Procedure**

In accordance with the bylaws of NERC, requests to amend or repeal the rules of procedure may be submitted by (1) any ten members of NERC, which number shall include members from at least three membership segments, (2) the Member Representatives Committee, (3) a standing committee of NERC to whose function and purpose the rule pertains, or (4) an officer of the ERO.

### **1402. Approval of Amendment or Repeal of Rules of Procedure**

Amendment to or repeal of rules of procedure shall be approved by the board after public notice and opportunity for comment in accordance with the bylaws of NERC. In approving changes to the rules of procedure, the board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the rules, and other stakeholders as appropriate. After board approval, the amendment or repeal shall be submitted to the ERO governmental authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the rules of procedure shall be effective until it has been approved by the applicable ERO governmental authorities.

### **1403. Alternative Procedure for Violation Risk Factors**

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard after notice and opportunity for comment. In adopting violation risk factors, the board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

## SECTION 1500 — CONFIDENTIAL INFORMATION

### 1501. Definitions

1. **Confidential information** means (i) confidential business and market information; (ii) critical energy infrastructure information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) cybersecurity incident information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential business and market information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical energy infrastructure information** means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.
4. **Critical infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cybersecurity incident information** means any information related to, describing, or which could be used to plan or cause a cybersecurity incident as defined in 18 C.F.R. § 39.1.

### 1502. Protection of Confidential Information

1. **Identification of Confidential Information** — An owner, operator, or user of the bulk power system and any other party (the “submitting entity”) shall mark as confidential any information that it submits to NERC or a regional entity (the “receiving entity”) that it reasonably believes contains confidential information as defined by these rules, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the submitting entity shall so indicate and provide supporting references and details.

2. **Confidentiality** — Except as provided herein, a receiving entity shall keep in confidence and not copy, disclose, or distribute any confidential information or any part thereof without the permission of the submitting entity, except as otherwise legally required.
3. **Information no longer Confidential** – If a submitting entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the submitting entity shall promptly so notify NERC or the relevant regional entity.

### **1503. Requests for Information**

1. **Limitation** — A receiving entity shall make information available only to one with a demonstrated need for access to the information from the receiving entity.
2. **Form of Request** — A person with such a need may request access to information by using the following procedure:
  - 2.1 The request must be in writing and clearly marked “Request for Information.”
  - 2.2 The request must identify the individual or entity that will use the information, explain the requester’s need for access to the information, explain how the requester will use the information in furtherance of that need, and state whether the information is publicly available or available from another source or through another means. If the requester seeks access to information that is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the requester shall describe how it qualifies to receive such information.
  - 2.3 The request must stipulate that, if the requester does not seek public disclosure, the requester will maintain as confidential any information received for which a submitting party has made a claim of confidentiality in accordance with NERC’s rules. As a condition to gaining access to such information, a requester shall execute a non-disclosure agreement in a form approved by NERC’s board of trustees.
3. **Notice and Opportunity for Comment** — Prior to any decision to disclose information marked as confidential, the receiving entity shall provide written notice to the submitting entity and an opportunity for the submitting entity to either waive objection to disclosure or provide comments as to why the confidential information should not be disclosed. Failure to provide such comments or otherwise respond is not deemed waiver of the claim of confidentiality.

4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the submitting entity, and any other relevant available information, the chief executive officer or his or her designee of the receiving entity shall determine whether to disclose such information.
5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Rule must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

NERC will provide written notice of such appeal to the submitting entity and an opportunity for the submitting entity to either waive objection to disclosure or provide comments as to why the confidential information should not be disclosed; provided that any such comments must be received within 30 days of the notice and any failure to provide such comments or otherwise respond is not deemed a waiver of the claim of confidentiality.

The President of NERC (or the President’s designee) will make a determination with respect to any appeal within 30 days. In unusual circumstances, this time limit may be extended by the President of NERC (or the President’s designee), who will send written notice to the requester setting forth the reasons for the extension and the date on which a determination on the appeal is expected.

6. **Disclosure of Information** — In the event the receiving entity, after following the procedures herein, determines to disclose information designated as confidential information, it shall provide the submitting entity no fewer than 21 days’ written notice prior to releasing the information in order to enable such submitting entity to (a) seek an appropriate protective order or other remedy, (b) consult with the receiving entity with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Rule. Should a receiving entity be required to disclose confidential information, or should the submitting entity waive objection to disclosure, the receiving entity shall furnish only that portion of the confidential information which the receiving entity’s counsel advises is legally required.
7. **Posting of Determinations on Requests for Disclosure of Confidential Information** — Upon making its determination on a request for disclosure of confidential information, NERC or the regional entity, as applicable, shall (i) notify the requester that the request for disclosure is granted or denied, (ii) publicly post any determination to deny the request to disclose confidential information, including in such posting an explanation of the reasons for the denial (but without in such explanation disclosing the confidential information), and (iii) publicly post any determination that information claimed by the submitting entity to be confidential information is not confidential information (but without in such

posting disclosing any information that has been determined to be confidential information).

#### **1504. Employees, Contractors and Agents**

A receiving entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom confidential information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

#### **1505. Provision of Information to FERC and Other Governmental Authorities**

1. **Request** — A request from FERC for reliability information with respect to owners, operators, and users of the bulk power system within the United States is authorized by Section 215 of the Federal Power Act. Other applicable ERO governmental authorities may have similar authorizing legislation that grants a right of access to such information. Unless otherwise directed by FERC or its staff or the other ERO governmental authority requesting the information, upon receiving such a request, a receiving entity shall provide contemporaneous notice to the applicable submitting entity. In its response to such a request, a receiving entity shall preserve any mark of confidentiality and shall notify FERC or other appropriate governmental authorities that the submitting entity has marked the information as confidential.
2. **Continued Confidentiality** — Each receiving entity shall continue to treat as confidential all confidential information that it has submitted to NERC or to FERC or another appropriate ERO governmental authority, until such time as FERC or the other appropriate ERO governmental authority authorizes disclosure of such information.

#### **1506. Permitted Disclosures**

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an appropriate governmental authority as a notice of penalty, the “violator” admits to the violation, or the alleged violator and NERC or the regional entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the regional entities are authorized to exchange confidential information related to evaluations, audits, and investigations in furtherance of the compliance and enforcement program, on condition they continue to maintain the confidentiality of such information.

#### **1507. Remedies for Improper Disclosure**

Any person engaged in NERC or regional entity activity under section 215 of the Federal Power Act or the equivalent laws of other appropriate governmental authorities who improperly discloses information determined to be confidential may lose access to confidential information on a temporary or permanent basis and may be subject to



adverse personnel action, including suspension or termination. Nothing in Section 1500 precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

## **SECTION 1600 — REQUESTS FOR DATA OR INFORMATION**

### **1601. Scope of a NERC or Regional Entity Request for Data or Information**

Within the United States, NERC and regional entities may request data or information that is necessary to meet their obligations under Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission’s regulations, 18 C.F.R. § 39.2(d). In other jurisdictions NERC and regional entities may request comparable data or information, using such authority as may exist pursuant to these rules and as may be granted by ERO governmental authorities in those other jurisdictions. The provisions of Section 1600 shall not apply to requirements contained in any Reliability Standard to provide data or information; the requirements in the Reliability Standards govern. The provisions of Section 1600 shall also not apply to data or information requested in connection with a compliance or enforcement action under Section 215 of the Federal Power Act, Section 400 of these Rules of Procedure, or any procedures adopted pursuant to those authorities, in which case the Rules of Procedure applicable to the production of data or information for compliance and enforcement actions shall apply.

### **1602. Procedure for Authorizing a NERC Request for Data or Information**

1. NERC shall provide a proposed request for data or information or a proposed modification to a previously-authorized request, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission’s Office of Electric Reliability at least twenty-one (21) days prior to initially posting the request or modification for public comment. Submission of the proposed request or modification to the Office of Electric Reliability is for the information of the Commission. NERC is not required to receive any approval from the Commission prior to posting the proposed request or modification for public comment in accordance with paragraph 1602.2 or issuing the request or modification to reporting entities following approval by the Board of Trustees.
2. NERC shall post a proposed request for data or information or a proposed modification to a previously authorized request for data or information for a forty-five (45) day public comment period.
  - 2.1. A proposed request for data or information shall contain, at a minimum, the following information: (i) a description of the data or information to be requested, how the data or information will be used, and how the availability of the data or information is necessary for NERC to meet its obligations under applicable laws and agreements; (ii) a description of how the data or information will be collected and validated; (iii) a description of the entities (by functional class and jurisdiction) that will be required to provide the data or information (“reporting entities”); (iv) the schedule or due date for the data or information; (v) a description of any restrictions on disseminating the data or information (e.g., “confidential,” “critical energy infrastructure information,” “aggregating”

or “identity masking”); and (vi) an estimate of the relative burden imposed on the reporting entities to accommodate the data or information request.

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the reporting entities to accommodate the modified data or information request, and (iii) any other items from paragraph 1.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without board approval. However, if a reporting entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the ERO governmental authority.

### **1603. Owners, Operators, and Users to Comply**

Owners, operators, and users of the bulk power system registered on the NERC Compliance Registry shall comply with authorized requests for data and information. In the event a reporting entity within the United States fails to comply with an authorized request for data or information under Section 1600, NERC may request the Commission to exercise its enforcement authority to require the reporting entity to comply with the request for data or information and for other appropriate enforcement action by the Commission. NERC will make any request for the Commission to enforce a request for data or information through a non-public submission to the Commission’s enforcement staff.

### **1604. Requests by Regional Entity for Data or Information**

1. A regional entity may request that NERC seek authorization for a request for data or information to be applicable within the footprint of the regional entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.
2. A regional entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural

elements as are included in this Section 1600. Any such regional entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other ERO governmental authorities applicable to the regional entity. The regional entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other ERO governmental authority.

### **1605. Confidentiality**

If the approved data or information request includes a statement under Section 1602.1.1(v) that the requested data or information will be held confidential or treated as critical energy infrastructure information, then the applicable provisions of Section 1500 will apply without further action by a submitting entity. A submitting entity may designate any other data or information as confidential pursuant to the provisions of Section 1500, and NERC or the regional entity shall treat that data or information in accordance with Section 1500. NERC or a regional entity may utilize additional protective procedures for handling particular requests for data or information as may be necessary under the circumstances.

### **1606. Expedited Procedures for Requesting Time-Sensitive Data or Information**

1. In the event NERC or a regional entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the bulk-power system, or to comply with a directive in an order issued by the Commission or by another ERO governmental authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.

3. NERC shall post the proposed request for data or information or proposed modification to a previously-authorized request for data or information for a public comment period that is reasonable in duration given the circumstances, but in no event shorter than five (5) days. The proposed request for data or information or proposed modification to a previously-authorized request for data or information shall include the information specified in paragraph 1602.2.1 or 1602.2.2, as applicable, and shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information.
4. The provisions of paragraphs 1602.3, 1602.4, 1602.5 and 1602.6 shall be applicable to a request for data or information or modification to a previously-authorized request for data or information developed and issued pursuant to Section 1606, except that (a) if NERC makes minor changes to an authorized request for data or information without board approval, such changes shall require board approval if a reporting entity objects to NERC in writing to such changes within five (5) days of issuance of the modified request; and (b) authorization of the request for data or information shall be final unless an affected party appeals the authorization of the request by the Board of Trustees to the ERO governmental authority within five (5) days following the decision of the Board of Trustees authorizing the request, which decision shall be promptly posted on NERC's web site.

## Red-Lined Version of the NERC Rules of Procedure

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Rules of Procedure

Effective: ~~October 7, 2011~~[DATE]

~~Rules of Procedure Sections 400 is subject to further revisions to comply with directives in FERC Order issued on October 7, 2011 (137 FERC ¶ 61,0028).~~

**TABLE OF CONTENTS**

**SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE..... 1**

**SECTION 200 — DEFINITIONS OF TERMS ..... 2**

201. General ..... 2

202. Specific Definitions ..... 2

**SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT ..... 5**

301. General ..... 5

302. Essential Attributes for Technically Excellent Reliability Standards..... 5

303. Relationship between Reliability Standards and Competition ..... 7

304. Essential Principles for the Development of Reliability Standards..... 8

305. Registered Ballot Body..... 8

306. Standards Committee..... 10

307. Standards Process Manager ..... 11

308. Steps in the Development of Reliability Standards ..... 11

309. Filing of Reliability Standards for Approval by ERO Governmental Authorities ..... 11

310. Reliability Standards Annual Work Plan..... 13

311. Regional Entity Standards Development Procedures ..... 13

312. Regional Reliability Standards ..... 15

313. Other Regional Criteria, Guides, Procedures, Agreements, Etc. .... 18

314. Conflicts with Statutes, Regulations, and Orders ..... 18

315. Revisions to NERC Reliability Standards Development Procedure ..... 19

316. Accreditation ..... 19

317. Five-Year Review of Standards..... 19

318. Coordination with the North American Energy Standards Board ..... 19

319. Archived Standards Information ..... 20

320. Alternate Method for Adopting Violation Risk Factors ..... 20

321. Special Rule to Address Certain Regulatory Directives ..... 20

**SECTION 400 — COMPLIANCE ENFORCEMENT ..... 24**

401. Scope of the NERC Compliance Enforcement Program ..... 24

402. NERC Oversight of the Regional Entity Compliance Enforcement Programs ..... 27

403. Required Attributes of Regional Entity Compliance Enforcement Programs ..... 30

404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users ..... 36

405. Monitoring of Standards and Other Requirements Applicable to NERC..... 37

406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program ..... 38

407. Penalties, Sanctions, and Remedial Actions..... 38

408. Review of NERC Decisions ..... 39

409. Appeals from Final Decisions of Regional Entities ..... 40

410. Hold Harmless ..... 41

411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards ..... 41

**SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION ..... 42**

501. Scope of the Organization Registration and Organization Certification Programs ..... 42

502. Organization Registration and Organization Certification Program Requirements ..... 45

503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements ..... 47



504.	Appeals .....	48
505.	Program Maintenance .....	49
506.	Independent Audit of NERC Organization Registration and Organization Certification Program .....	49
507.	Provisions Relating to Joint Registration Organizations (JRO) .....	49
508.	Provisions Relating to Coordinated Functional Registration (CFR) Entities .....	50
<b>SECTION 600 — PERSONNEL CERTIFICATION .....</b>		<b>53</b>
601.	Scope of Personnel Certification .....	53
602.	Structure of ERO Personnel Certification Program .....	53
603.	Candidate Testing Mechanisms .....	54
604.	Public Information About the Personnel Certification Program .....	55
605.	Responsibilities to Applicants for Certification or Recertification .....	55
606.	Responsibilities to the Public and to Employers of Certified Practitioners .....	56
<b>SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS.....</b>		<b>57</b>
701	Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members .....	57
702.	Formation of Sector Forum .....	57
<b>SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS.....</b>		<b>58</b>
801.	Objectives of the Reliability Assessment and Performance Analysis Program .....	58
802.	Scope of the Reliability Assessment Program .....	58
803.	Reliability Assessment Reports .....	59
804.	Reliability Assessment Data and Information Requirements .....	60
805.	Reliability Assessment Process .....	61
806.	Scope of the Reliability Performance and Analysis Program .....	63
807.	Analysis of Major Events .....	63
808.	Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance .....	64
809.	Reliability Benchmarking .....	64
810.	Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions .....	65
811.	Equipment Performance Data .....	66
<b>SECTION 900 — TRAINING AND EDUCATION .....</b>		<b>67</b>
901.	Scope of the Training and Education Program .....	67
902.	Continuing Education Program .....	67
<b>SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY .....</b>		<b>69</b>
1001.	Situation Awareness .....	69
1002.	Reliability Support Services .....	69
1003.	Infrastructure Security Program .....	69
<b>SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS.....</b>		<b>72</b>
1101.	Scope of Business Plans and Budgets .....	72
1102.	NERC Funding and Cost Allocation .....	72
1103.	NERC Budget Development .....	72
1104.	Submittal of Regional Entity Budgets to NERC .....	73
1105.	Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval .....	73
1106.	NERC and Regional Entity Billing and Collections .....	74
1107.	Penalty Applications .....	75

1108.	Special Assessments .....	76
<b>SECTION 1200 — REGIONAL DELEGATION AGREEMENTS .....</b>		<b>77</b>
1201.	Pro Forma Regional Delegation Agreement.....	77
1202.	Regional Entity Essential Requirements .....	77
1203.	Negotiation of Regional Delegation Agreements.....	77
1204.	Conformance to Rules and Terms of Regional Delegation Agreements.....	77
1205.	Sub-delegation .....	77
1206.	Nonconformance to Rules or Terms of Regional Delegation Agreement.....	77
1207.	Regional Entity Audits .....	78
1208.	Process for Considering Registered Entity Requests to Transfer to Another Regional Entity Audits .....	78
<b>SECTION 1300 — COMMITTEES .....</b>		<b>81</b>
1301.	Establishing Standing Committees .....	81
1302.	Committee Membership .....	81
1303.	Procedures for Appointing Committee Members.....	81
1304.	Procedures for Conduct of Committee Business .....	81
1305.	Committee Subgroups .....	82
<b>SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE .....</b>		<b>83</b>
1401.	Proposals for Amendment or Repeal of Rules of Procedure .....	83
1402.	Approval of Amendment or Repeal of Rules of Procedure.....	83
1403.	Alternative Procedure for Violation Risk Factors .....	83
<b>SECTION 1500 — CONFIDENTIAL INFORMATION.....</b>		<b>84</b>
1501.	Definitions .....	84
1502.	Protection of Confidential Information .....	84
1503.	Requests for Information .....	85
1504.	Employees, Contractors and Agents.....	87
1505.	Provision of Information to FERC and Other Governmental Authorities.....	87
1506.	Permitted Disclosures .....	87
1507.	Remedies for Improper Disclosure.....	87
<b>SECTION 1600 — REQUESTS FOR DATA OR INFORMATION .....</b>		<b>89</b>
1601.	Scope of a NERC or Regional Entity Request for Data or Information .....	89
1602.	Procedure for Authorizing a NERC Request for Data or Information.....	89
1603.	Owners, Operators, and Users to Comply.....	90
1604.	Requests by Regional Entity for Data or Information .....	90
1605.	Confidentiality .....	91
1606.	Expedited Procedures for Requesting Time-Sensitive Data or Information.....	91

## **SECTION 100 — APPLICABILITY OF RULES OF PROCEDURE**

NERC and NERC members shall comply with these rules of procedure. Each regional entity shall comply with these rules of procedure as applicable to functions delegated to the regional entity by NERC or as required by an appropriate governmental authority or as otherwise provided.

Each bulk power system owner, operator, and user shall comply with all rules of procedure of NERC that are made applicable to such entities by approval pursuant to applicable legislation or regulation, or pursuant to agreement.

Any entity that is unable to comply or that is not in compliance with a NERC rule of procedure shall immediately notify NERC in writing, stating the rule of concern and the reason for not being able to comply with the rule.

NERC shall evaluate each case and inform the entity of the results of the evaluation. If NERC determines that a rule has been violated, or cannot practically be complied with, NERC shall notify the applicable governmental authorities and take such other actions as NERC deems appropriate to address the situation.

NERC shall comply with each approved reliability standard that identifies NERC or the electric reliability organization as a responsible entity. Regional Entities shall comply with each approved reliability standard that identifies Regional Entities as responsible entities. A violation by NERC or a Regional Entity of such a reliability standard shall constitute a violation of these Rules of Procedure.

## **SECTION 200 — DEFINITIONS OF TERMS**

### **201. General**

For purposes of NERC rules of procedure, the terms defined in Section 202 shall have the meaning set forth therein. Other terms are defined within particular sections of the rules of procedure. Other terms used but not defined in the rules of procedure shall be defined in NERC's Bylaws, the NERC Glossary of Terms Used in Reliability Standards adopted in conjunction with NERC's Reliability Standards, or in accordance with their commonly understood and used technical meanings in the electric power industry, including applicable codes and standards.

### **202. Specific Definitions**

“Board” means the Board of Trustees of NERC.

“Bulk power system” means facilities and control systems necessary for operating an interconnected electric energy supply and transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.

“Canadian” means one of the following: (a) a company or association incorporated or organized under the laws of Canada, or its designated representative(s) irrespective of nationality; (b) an agency of a federal, provincial, or local government in Canada, or its designated representative irrespective(s) of nationality; or (c) a self-representing individual who is a Canadian citizen residing in Canada.

“Confirmed violation” is one for which an entity has: 1) accepted the finding of the violation by a regional entity or NERC and will not seek an appeal, or 2) completed the hearing and appeals process within NERC, or 3) allowed the time for submitting an appeal to expire, or 4) admitted to the violation in a settlement agreement.

“Electric reliability organization” or “ERO” means the organization that is certified by the Commission under Section 39.3 of its regulations, the purpose of which is to establish and enforce Reliability Standards for the bulk power system in the United States. The organization may also have received recognition by applicable governmental authorities in Canada and Mexico to establish and enforce reliability standards for the bulk power systems of the respective countries.

“Entity variance” means an aspect of a reliability standard that applies only within a particular entity or a subset of entities within a limited portion of a regional entity, such as a variance that would apply to a regional transmission organization or particular market or to a subset of bulk power system owners, operators or users. An entity variance may not be inconsistent with or less stringent than the reliability standards as it would otherwise exist without the entity variance. An entity variance shall be approved only through the NERC standards development procedure and shall be made part of the NERC reliability standards.

“ERO governmental authority” is a government agency that has subject matter jurisdiction over the reliability of the bulk power system within its jurisdictional territory. In the United States, the ERO governmental authority is the Federal Energy Regulatory Commission. In Canada, the ERO governmental authority resides with applicable federal and provincial governments who may delegate duties and responsibilities to other entities. Use of the term is intended to be inclusive of all applicable authorities in the United States, Canada, and Mexico, and is not restricted to those listed here.

“Net Energy for Load” or “NEL” means net generation of an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage of energy at energy storage facilities.

“Reliable operation” means operating the elements of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements.

“Regional criteria” means reliability requirements developed by a regional entity that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Such regional criteria may be necessary to account for physical differences in the bulk power system but are not inconsistent with reliability standards nor do they result in lesser reliability. Such regional criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

“Regional reliability standard” means a type of reliability standards that is applicable only within a particular regional entity or group of regional entities. A regional reliability standard may augment, add detail to, or implement another reliability standard or cover matters not addressed by other reliability standards. Regional reliability standards, upon adoption by NERC and approval by the applicable ERO governmental authority(ies), shall be reliability standards and shall be enforced within the applicable regional entity or regional entities pursuant to delegated authorities.

“Reliability standard” means a requirement to provide for reliable operation of the bulk power system, including without limiting the foregoing, requirements for the operation of existing bulk power system facilities, including cyber security protection, and including the design of planned additions or modifications to such facilities to the extent necessary for reliable operation of the bulk power system, but the term does not include any requirement to enlarge bulk power system facilities or to construct new transmission capacity or generation capacity. A reliability standard shall not be effective in the United States until approved by the Federal Energy Regulatory Commission and shall not be effective in other jurisdictions until made or allowed to become effective by the applicable governmental authority.

“Variance” means an aspect or element of a reliability standard that applies only within a particular regional entity or group of regional entities, or to a particular entity or class of entities. A variance allows an alternative approach to meeting the same reliability objective as the reliability standard, and is typically necessitated by a physical difference. A variance is embodied within a reliability standard and as such, if adopted by NERC and approved by the ERO governmental authority, shall be enforced within the applicable regional entity or regional entities pursuant to delegated authority.

## SECTION 300 — RELIABILITY STANDARDS DEVELOPMENT

### 301. General

NERC shall develop and maintain reliability standards that apply to bulk power system owners, operators, and users and that enable NERC and regional entities to measure the reliability performance of bulk power system owners, operators, and users; and to hold them accountable for reliable operation of the bulk power systems. The reliability standards shall be technically excellent, timely, just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with other applicable standards of governmental authorities.

### 302. Essential Attributes for Technically Excellent Reliability Standards

1. **Applicability** — Each reliability standard shall clearly identify the functional classes of entities responsible for complying with the reliability standard, with any specific additions or exceptions noted. Such functional classes<sup>1</sup> include: reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers. Each reliability standard shall also identify the geographic applicability of the standard, such as the entire North American bulk power system, an interconnection, or within a regional entity area. A standard may also identify any limitations on the applicability of the standard based on electric facility characteristics.
2. **Reliability Objectives** — Each reliability standard shall have a clear statement of purpose that shall describe how the standard contributes to the reliability of the bulk power system. The following general objectives for the bulk power system provide a foundation for determining the specific objective(s) of each reliability standard:
  - 2.1 **Reliability Planning and Operating Performance**— Bulk power systems shall be planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions.
  - 2.2 **Frequency and Voltage Performance**— The frequency and voltage of bulk power systems shall be controlled within defined limits through the balancing of real and reactive power supply and demand.

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<sup>1</sup> These functional classes of entities are derived from NERC's Reliability Functional Model. When a standard identifies a class of entities to which it applies, that class must be defined in the Glossary of Terms Used in Reliability Standards.

- 2.3 **Reliability Information** — Information necessary for the planning and operation of reliable bulk power systems shall be made available to those entities responsible for planning and operating bulk power systems.
  - 2.4 **Emergency Preparation** — Plans for emergency operation and system restoration of bulk power systems shall be developed, coordinated, maintained, and implemented.
  - 2.5 **Communications and Control** — Facilities for communication, monitoring, and control shall be provided, used, and maintained for the reliability of bulk power systems.
  - 2.6 **Personnel** — Personnel responsible for planning and operating bulk power systems shall be trained and qualified, and shall have the responsibility and authority to implement actions.
  - 2.7 **Wide-area View** — The reliability of the bulk power systems shall be assessed, monitored, and maintained on a wide-area basis.
  - 2.8 **Security** — Bulk power systems shall be protected from malicious physical or cyber attacks.
3. **Performance Requirement or Outcome**— Each reliability standard shall state one or more performance requirements, which if achieved by the applicable entities, will provide for a reliable bulk power system, consistent with good utility practices and the public interest. Each requirement is not a “lowest common denominator” compromise, but instead achieves an objective that is the best approach for bulk power system reliability, taking account of the costs and benefits of implementing the proposal.
  4. **Measurability** — Each performance requirement shall be stated so as to be objectively measurable by a third party with knowledge or expertise in the area addressed by that requirement. Each performance requirement shall have one or more associated measures used to objectively evaluate compliance with the requirement. If performance can be practically measured quantitatively, metrics shall be provided to determine satisfactory performance.
  5. **Technical Basis in Engineering and Operations**— Each reliability standard shall be based upon sound engineering and operating judgment, analysis, or experience, as determined by expert practitioners in that particular field.
  6. **Completeness** — Reliability standards shall be complete and self-contained. The standards shall not depend on external information to determine the required level of performance.



7. **Consequences for Noncompliance** — In combination with guidelines for penalties and sanctions, as well as other ERO and regional entity compliance documents, the consequences of violating a standard are clearly presented to the entities responsible for complying with the standards.
8. **Clear Language** — Each reliability standard shall be stated using clear and unambiguous language. Responsible entities, using reasonable judgment and in keeping with good utility practices, are able to arrive at a consistent interpretation of the required performance.
9. **Practicality** — Each reliability standard shall establish requirements that can be practically implemented by the assigned responsible entities within the specified effective date and thereafter.
10. **Consistent Terminology** — To the extent possible, reliability standards shall use a set of standard terms and definitions that are approved through the NERC reliability standards development process.

### **303. Relationship between Reliability Standards and Competition**

To ensure reliability standards are developed with due consideration of impacts on competition, to ensure standards are not unduly discriminatory or preferential, and recognizing that reliability is an essential requirement of a robust North American economy, each reliability standard shall meet all of these market-related objectives:

1. **Competition** — A reliability standard shall not give any market participant an unfair competitive advantage.
2. **Market Structures** — A reliability standard shall neither mandate nor prohibit any specific market structure.
3. **Market Solutions** — A reliability standard shall not preclude market solutions to achieving compliance with that standard.
4. **Commercially Sensitive Information** — A reliability standard shall not require the public disclosure of commercially sensitive information or other confidential information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.
5. **Adequacy** — NERC shall not set standards defining an adequate amount of, or requiring expansion of, bulk power system resources or delivery capability.

### **304. Essential Principles for the Development of Reliability Standards**

NERC shall develop reliability standards in accordance with the NERC *Standard Processes Manual*, which is incorporated into these rules as **Appendix 3A**. Appeals in connection with the development of a reliability standard shall also be conducted in accordance with the NERC *Standard Processes Manual*. Any amendments or revisions to the *Standard Processes Manual* shall be consistent with the following essential principles:

1. **Openness** — Participation shall be open to all persons who are directly and materially affected by the reliability of the North American bulk power system. There shall be no undue financial barriers to participation. Participation shall not be conditional upon membership in NERC or any other organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.
2. **Transparency** — The process shall be transparent to the public.
3. **Consensus-building** — The process shall build and document consensus for each standard, both with regard to the need and justification for the standard and the content of the standard.
4. **Fair Balance of Interests** — The process shall fairly balance interests of all stakeholders and shall not be dominated by any single interest category.
5. **Due Process** — Development of standards shall provide reasonable notice and opportunity for any person with a direct and material interest to express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards.
6. **Timeliness** — Development of standards shall be timely and responsive to new and changing priorities for reliability of the bulk power system.

### **305. Registered Ballot Body**

NERC reliability standards shall be approved by a registered ballot body prior to submittal to the board and then to ERO governmental authorities for their approval, where authorized by applicable legislation or agreement. This Section 305 sets forth the rules pertaining to the composition of, and eligibility to participate in, the registered ballot body.

1. **Eligibility to Vote on Standards** — Any person or entity may join the registered ballot body to vote on standards, whether or not such person or entity is a member of NERC.

2. **Inclusive Participation** — The segment qualification guidelines are inclusive; i.e., any entity with a legitimate interest in the reliability of the bulk power system that can meet any one of the eligibility criteria for a segment is entitled to belong to and vote in each segment for which it qualifies, subject to limitations defined in Sections 305.3 and 305.5.
3. **General Criteria for Registered Ballot Body Membership** — The general criteria for membership in the segments are:
  - 3.1 **Multiple Segments** — A corporation or other organization with integrated operations or with affiliates that qualifies to belong to more than one segment (e.g., transmission owners and load serving entities) may join once in each segment for which it qualifies, provided that each segment constitutes a separate membership and the organization is represented in each segment by a different representative. Affiliated entities are collectively limited to one membership in each segment for which they are qualified.
  - 3.2 **Withdrawing from a Segment or Changing Segments** — After its initial registration in a segment, each registered participant may elect to withdraw from a segment or apply to change segments at any time.
  - 3.3 **Review of Segment Criteria** — The board shall review the qualification guidelines and rules for joining segments at least every three years to ensure that the process continues to be fair, open, balanced, and inclusive. Public input will be solicited in the review of these guidelines.
4. **Proxies for Voting on Standards** — Any registered participant may designate an agent or proxy to vote on its behalf. There are no limits on how many proxies an agent may hold. However, for the proxy to be valid, NERC must have in its possession written documentation signed by the representative of the registered participant that the voting right by proxy has been transferred from the registered participant to the agent.
5. **Stakeholder Segments** — The specific criteria for membership in each registered ballot body segment are defined in the *Standard Processes Manual* in **Appendix 3A**.
6. **Review of Stakeholder Segment Entries** — NERC shall review all applications for joining the registered ballot body, and shall make a determination of whether the applicant's self-selection of a segment satisfies at least one of the guidelines to belong to that segment. The entity shall then become eligible to participate as a voting member of that segment. The Standards Committee shall resolve disputes regarding eligibility for membership in a segment, with the applicant having the right of appeal to the board.

### **306. Standards Committee**

The Standards Committee shall provide oversight of the reliability standards development process to ensure stakeholder interests are fairly represented. The Standards Committee shall not under any circumstance change the substance of a draft or approved standard.

1. **Membership** — The Standards Committee is a representative committee comprising representatives of two members of each of the segments in the registered ballot body.
2. **Elections** — Standards Committee members are elected for staggered (one per segment per year) two-year terms by the respective stakeholder segments in accordance with the *Procedure for the Election of Members of the NERC Standards Committee*, which is incorporated into these rules as **Appendix 2**. Segments may use their own election procedure if such a procedure is ratified by two-thirds of the members of a segment and approved by the board.
3. **Canadian Representation**
  - 3.1 **Provision for Sufficient Canadian Representation** — If any regular election of Standards Committee members does not result in at least two Canadian members on the Standards Committee, the Canadian nominees who were not elected but who received the next highest percentage of votes within their respective segment(s) will be designated as additional members of the Standards Committee, as needed to achieve a total of two Canadian members.
  - 3.2 **Terms of Specially Designated Canadian Members** — Each specially designated Canadian member of the Standards Committee shall have a term ending with the next annual election.
  - 3.3 **Segment Preference** — If any segment has an unfilled representative position on the Standards Committee following the annual election, the first preference is to assign each specially designated Canadian representative to a segment with an unfilled representative position for which his or her organization qualifies.
  - 3.4 **Rights of Specially Designated Canadian Members** — Any specially designated Canadian members of the Standards Committee shall have the same rights and obligations as all other members of the Standards Committee.
4. **Open Meetings** — All meetings of the Standards Committee shall be open and publicly noticed on the NERC Web site.

### **307. Standards Process Manager**

NERC shall assign a standards process manager to administer the development of reliability standards. The standards process manager shall be responsible for ensuring that the development and revision of standards are in accordance with the NERC *Standard Processes Manual*. The standards process manager shall work to achieve the highest degree of integrity and consistency of quality and completeness of the reliability standards. The standards process manager shall coordinate with any regional entities that develop regional reliability standards to ensure those standards are effectively integrated with the NERC reliability standards.

### **308. Steps in the Development of Reliability Standards**

1. **Procedure** — NERC shall develop reliability standards through the process set forth in the NERC *Standard Processes Manual* (**Appendix 3A**). The procedure includes a provision for approval of urgent action standards that can be completed within 60 days and emergency actions that may be further expedited.
2. **Board Approval** — Reliability standards or revisions to reliability standards approved by the ballot pool in accordance with the *Standard Processes Manual* shall be submitted for approval by the board. No reliability standard or revision to a reliability standard shall be effective unless approved by the board.
3. **Governmental Approval** — After receiving board approval, a reliability standard or revision to a reliability standard shall be submitted to all applicable ERO governmental authorities in accordance with Section 309. No reliability standard or revision to a reliability standard shall be effective within a geographic area over which an ERO governmental authority has jurisdiction unless approved by such ERO governmental authority or is otherwise made effective pursuant to the laws applicable to such ERO governmental authority.

### **309. Filing of Reliability Standards for Approval by ERO Governmental Authorities**

1. **Filing of Reliability Standards for Approval** — Where authorized by applicable legislation or agreement, NERC shall file with the applicable ERO governmental authorities each reliability standard, modification to a reliability standard, or withdrawal of a standard that is approved by the board. Each filing shall be in the format required by the ERO governmental authority and shall include: a concise statement of the basis and purpose of the standard; the text of the standard; the implementation plan for the reliability standard; a demonstration that the standard meets the essential attributes of reliability standards as stated in Section 302; the drafting team roster; the ballot pool and final ballot results; and a discussion of public comments received during the development of the reliability standard and the consideration of those comments.

2. **Remanded Reliability Standards and Directives to Develop Standards** — If an ERO governmental authority remands a reliability standard to NERC or directs NERC to develop a reliability standard, NERC shall within five (5) business days notify all other applicable ERO governmental authorities, and shall within thirty (30) calendar days report to all ERO governmental authorities a plan and timetable for modification or development of the reliability standard. Standards that are remanded or directed by an ERO governmental authority shall be modified or developed using the *Standard Processes Manual*. NERC shall, during the development of a modification for the remanded standard or directed standard, consult with other ERO governmental authorities to coordinate any impacts of the proposed standards in those other jurisdictions. The expedited action procedure may be applied if necessary to meet a timetable for action required by the ERO governmental authorities, respecting to the extent possible the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interest in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply.
  
3. **Directives to Develop Standards under Extraordinary Circumstances** — An ERO governmental authority may, on its own initiative, determine that extraordinary circumstances exist requiring expedited development of a reliability standard. In such a case, the applicable agency may direct the development of a standard within a certain deadline. NERC staff shall prepare the standards authorization request and seek a stakeholder sponsor for the request. If NERC is unable to find a sponsor for the proposed standard, NERC will be designated as the requestor. The proposed standard will then proceed through the standards development process, using the expedited action procedures described in the *Standard Processes Manual* as necessary to meet the specified deadline. The timeline will be developed to respect, to the extent possible, the provisions in the standards development process for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing reliability standards. If the Board of Trustees determines that the standards process did not result in a standard that addresses a specific matter that is identified in a directive issued by an applicable ERO governmental authority, then Rule 321 of these Rules of Procedure shall apply, with appropriate modification of the timeline.

  - 3.1 Consistent with all reliability standards developed under the expedited action process, each of the three possible follow-up actions as documented in the *Standard Processes Manual* are to be completed through the standards development process and are subject to approval by the ERO governmental authorities in the U.S. and Canada.

**310. Reliability Standards Annual Work Plan**

NERC shall develop and provide an annual work plan for development of reliability standards to the applicable ERO governmental authorities. NERC shall consider the comments and priorities of the ERO governmental authorities in developing and updating the work plan. Each annual work plan shall include a progress report comparing results achieved to the prior year's plan.

**311. Regional Entity Standards Development Procedures**

1. **NERC Approval of Regional Entity Reliability Standards Development Procedure** — To enable a regional entity to develop regional reliability standards that are to be recognized and made part of NERC reliability standards, a regional entity may request NERC to approve a regional entity reliability standards development procedure.
2. **Public Notice and Comment on Regional Reliability Standards Development Procedure** — Upon receipt of such a request, NERC shall publicly notice and request comment on the proposed regional standards development procedure, allowing a minimum of 45 days for comment. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to withdraw the request, revise the procedure and request another posting for comment, or submit the procedure, along with its consideration of any objections received, for approval by NERC.
3. **Evaluation of Regional Reliability Standards Development Procedure** — NERC shall evaluate whether a regional reliability standards development procedure meets the criteria listed below and shall consider stakeholder comments, any unresolved stakeholder objections, and the consideration of comments provided by the regional entity, in making that determination. If NERC determines the regional reliability standards development procedure meets these requirements, the procedure shall be submitted to the board for approval. The board shall consider the recommended action, stakeholder comments, any unresolved stakeholder comments, and the regional entity consideration of comments in determining whether to approve the regional reliability standards development procedure.
  - 3.1 **Evaluation Criteria** — The regional reliability standards development procedure shall be:
    - 3.1.1 **Open** — The regional reliability standards development procedure shall provide that any person or entity who is directly and materially affected by the reliability of the bulk power systems within the regional entity shall be able to participate in the development and approval of reliability standards. There shall be no undue financial barriers to participation. Participation shall not

be conditional upon membership in the regional entity, a regional entity or any organization, and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements.

- 3.1.2 **Inclusive** — The regional reliability standards development procedure shall provide that any person with a direct and material interest has a right to participate by expressing an opinion and its basis, having that position considered, and appealing through an established appeals process if adversely affected.
  - 3.1.3 **Balanced** — The regional reliability standards development procedure shall have a balance of interests and shall not permit any two interest categories to control the vote on a matter or any single interest category to defeat a matter.
  - 3.1.4 **Due Process** — The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.
  - 3.1.5 **Transparent** — All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.
  - 3.1.6 **Accreditation of Regional Standards Development Procedure** — A regional entity's reliability standards development procedure that is accredited by the American National Standards Institute or the Standards Council of Canada shall be deemed to meet the criteria listed in this Section 311.3.1, although such accreditation is not a prerequisite for approval by NERC.
  - 3.1.7 **Use of NERC Procedure** — A regional entity may adopt the NERC *Standard Processes Manual* as the regional reliability standards development procedure, in which case the regional entity's procedure shall be deemed to meet the criteria listed in this Section 311.3.1.
4. **Revisions of Regional Reliability Standards Development Procedures** — Any revision to a regional reliability standards development procedure shall be subject to the same approval requirements set forth in Sections 311.1 through 311.3.
  5. **Duration of Regional Reliability Standards Development Procedures** — The regional reliability standards development procedure shall remain in effect until



such time as it is replaced with a new version approved by NERC or it is withdrawn by the regional entity. The regional entity may, at its discretion, withdraw its regional reliability standards development procedure at any time.

### **312. Regional Reliability Standards**

1. **Basis for Regional Reliability Standards** — Regional entities may propose regional reliability standards that set more stringent reliability requirements than the NERC reliability standard or cover matters not covered by an existing NERC reliability standard. Such regional reliability standards shall in all cases be approved by NERC and made part of the NERC reliability standards and shall be enforceable in accordance with the delegation agreement between NERC and the regional entity or other instrument granting authority over enforcement to the regional entity. No entities other than NERC and the regional entity shall be permitted to develop regional reliability standards that are enforceable under statutory authority delegated to NERC and the regional entity.
2. **Regional Reliability Standards That are Directed by a NERC Reliability Standard** — Although it is the intent of NERC to promote uniform reliability standards across North America, in some cases it may not be feasible to achieve a reliability objective with a reliability standard that is uniformly applicable across North America. In such cases, NERC may direct regional entities to develop regional reliability standards necessary to implement a NERC reliability standard. Such regional reliability standards that are developed pursuant to a direction by NERC shall be made part of the NERC reliability standards.
3. **Procedure for Developing an Interconnection-wide Regional Standard** — A regional entity organized on an interconnection-wide basis may propose a regional reliability standard for approval as a NERC reliability standard to be made mandatory for all applicable bulk power system owners, operators, and users within that interconnection.
  - 3.1 **Presumption of Validity** — An interconnection-wide regional reliability standard that is determined by NERC to be just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities, shall be adopted as a NERC reliability standard. NERC shall rebuttably presume that a regional reliability standard developed, in accordance with a regional reliability standards development process approved by NERC, by a regional entity organized on an interconnection-wide basis, is just, reasonable, and not unduly discriminatory or preferential, and in the public interest, and consistent with such other applicable standards of governmental authorities.

- 3.2 **Notice and Comment Procedure for Interconnection-wide Regional Reliability Standard** — NERC shall publicly notice and request comment on the proposed interconnection-wide regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity's reliability standards development process. The regional entity shall have an opportunity to resolve any objections identified in the comments and may choose to comment on or withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 3.3 **Approval of Interconnection-wide Regional Reliability Standard by NERC** — NERC shall evaluate and recommend whether a proposed interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections that could serve as a basis for rebutting the presumption of validity of the regional reliability standard. The regional entity, having been notified of the results of the evaluation and recommendation concerning NERC proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity's request, NERC's recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity's consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 3.4 **ERO Governmental Authority Approval** — An interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 3.5 **Enforcement of Interconnection-wide Regional Reliability Standard** — An interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.
4. **Procedure for Developing Non-Interconnection-Wide Regional Reliability Standards** — Regional entities that are not organized on an interconnection-wide basis may propose regional reliability standards to apply within their respective

regions. Such standards may be developed through the NERC reliability standards development procedure, or alternatively, through a regional reliability standards development procedure that has been approved by NERC.

- 4.1 **No Presumption of Validity** — Regional reliability standards that are not proposed to be applied on an interconnection-wide basis are not presumed to be valid but may be demonstrated by the proponent to be valid.
- 4.2 **Notice and Comment Procedure for Non-Interconnection-wide Regional Reliability Standards** — NERC shall publicly notice and request comment on the proposed regional reliability standard, allowing a minimum of 45 days for comment. NERC may publicly notice and post for comment the proposed regional reliability standard concurrent with similar steps in the regional entity’s reliability standards development process. The regional entity shall have an opportunity to comment on or resolve any objections identified in the comments and may choose to withdraw the request, revise the proposed regional reliability standard and request another posting for comment, or submit the proposed regional reliability standard along with its consideration of any objections received, for approval by NERC.
- 4.3 **NERC Approval of Non-Interconnection-wide Regional Reliability Standards** — NERC shall evaluate and recommend whether a proposed non-Interconnection-wide regional reliability standard has been developed in accordance with all applicable procedural requirements and whether the regional entity has considered and resolved stakeholder objections. The regional entity, having been notified of the results of the evaluation and recommendation concerning proposed regional reliability standard, shall have the option of presenting the proposed regional reliability standard to the board for approval as a NERC reliability standard. The board shall consider the regional entity’s request, the recommendation for action on the regional reliability standard, any unresolved stakeholder comments, and the regional entity’s consideration of comments, in determining whether to approve the regional reliability standard as a NERC reliability standard.
- 4.4 **NERC Governmental Authority Approval** — A non-Interconnection-wide regional reliability standard that has been approved by the board shall be filed with the applicable ERO governmental authorities for approval, where authorized by applicable legislation or agreement, and shall become effective when approved by such ERO governmental authorities or on a date set by the ERO governmental authorities.
- 4.5 **Enforcement of Non-Interconnection-wide Regional Reliability Standards** — A non-Interconnection-wide regional reliability standard that has been approved by the board and by the applicable ERO

governmental authorities or is otherwise made effective within Canada as mandatory within a particular region shall be applicable and enforced as a NERC reliability standard within the region.

5. **Appeals** — A Regional Entity shall have the right to appeal NERC's decision not to approve a proposed regional reliability standard or variance to the Commission or other applicable governmental authority.

### **313. Other Regional Criteria, Guides, Procedures, Agreements, Etc.**

1. **Regional Criteria** — Regional entities may develop regional criteria that are necessary to implement, to augment, or to comply with reliability standards, but which are not reliability standards. Regional criteria may also address issues not within the scope of reliability standards, such as resource adequacy. Regional criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents used to enhance the reliability of the regional bulk power system. These documents typically provide benefits by promoting more consistent implementation of the NERC reliability standards within the region. These documents are not NERC reliability standards, regional reliability standards, or regional variances, and therefore are not enforceable under authority delegated by NERC pursuant to delegation agreements and do not require NERC approval.
2. **Catalog of Regional Reliability Criteria** — NERC shall maintain a current catalog of regional reliability criteria. Regional entities shall provide a catalog listing of regional reliability criteria to NERC and shall notify NERC of changes to the listing. Regional entities shall provide any listed document to NERC upon written request.

### **314. Conflicts with Statutes, Regulations, and Orders**

**Notice of Potential Conflict** — If a bulk power system owner, operator, or user determines that a NERC or regional reliability standard may conflict with a function, rule, order, tariff, rate schedule, legislative requirement or agreement that has been accepted, approved, or ordered by a governmental authority affecting that entity, the entity shall expeditiously notify the governmental authority, NERC, and the relevant regional entity of the conflict.

1. **Determination of Conflict** — NERC, upon request of the governmental authority, may advise the governmental authority regarding the conflict and propose a resolution of the conflict, including revision of the reliability standard if appropriate.
2. **Regulatory Precedence** — Unless otherwise ordered by a governmental authority, the affected bulk power system owner, operator, or user shall continue

to follow the function, rule, order, tariff, rate schedule, legislative requirement, or agreement accepted, approved, or ordered by the governmental authority until the governmental authority finds that a conflict exists and orders a remedy and such remedy is affected.

**315. Revisions to NERC Reliability Standards Development Procedure**

Any person or entity may submit a written request to modify NERC *Standard Processes Manual*. Consideration of the request and development of the revision shall follow the process defined in the NERC *Standard Processes Manual*. Upon approval by the board, the revision shall be submitted to the ERO governmental authorities for approval. Changes shall become effective only upon approval by the ERO governmental authorities or on a date designated by the ERO governmental authorities or as otherwise applicable in a particular jurisdiction.

**316. Accreditation**

NERC shall seek continuing accreditation of the NERC reliability standards development process by the American National Standards Institute and the Standards Council of Canada.

**317. Five-Year Review of Standards**

NERC shall complete a review of each NERC reliability standard at least once every five years from the effective date of the standard or the latest revision to the standard, whichever is later. The review process shall be conducted in accordance with the NERC *Standard Processes Manual*. The standards process manager shall be responsible for administration of the five-year review of reliability standards. As a result of this review, the NERC reliability standard shall be reaffirmed, revised, or withdrawn. If the review indicates a need to revise or withdraw the standard, a request for revision or withdrawal shall be prepared, submitted and addressed in accordance with the NERC *Standard Processes Manual*.

**318. Coordination with the North American Energy Standards Board**

NERC shall, through a memorandum of understanding, maintain a close working relationship with the North American Energy Standards Board and ISO/RTO Council to ensure effective coordination of wholesale electric business practice standards and market protocols with the NERC reliability standards.

**319. Archived Standards Information**

NERC shall maintain a historical record of reliability standards information that is no longer maintained on-line. For example, standards that expired or were replaced may be removed from the on-line system. Archived information shall be retained indefinitely as practical, but in no case less than five years or one complete standards review cycle from the date on which the standard was no longer in effect. Archived records of reliability standards information shall be available electronically within 30 days following the receipt by the standards process manager of a written request.

**320. Alternate Method for Adopting Violation Risk Factors**

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard using the procedures set out in Section 1400 of these Rules of Procedure.

**321. Special Rule to Address Certain Regulatory Directives**

In circumstances where this Rule 321 applies, the Board of Trustees shall have the authority to take one or more of the actions set out below. The Board of Trustees shall have the authority to choose which one or more of the actions are appropriate to the circumstances and need not take these actions in sequential steps.

1. The Standards Committee shall have the responsibility to ensure that standards drafting teams address specific matters that are identified in directives issued by applicable ERO governmental authorities. If the Board of Trustees is presented with a proposed standard that fails to address such directives, the Board of Trustees has the authority to remand, with instructions (including establishing a timetable for action), the proposed reliability standard to the Standards Committee.
2. Upon a written finding by the Board of Trustees that a ballot pool has failed to approve a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to remand the proposed reliability standard to the Standards Committee, with instructions to (i) convene a public technical conference to discuss the issues surrounding the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified; (ii) working with NERC staff, prepare a memorandum discussing the issues, an analysis of the alternatives considered and other appropriate matters; and (iii) re-ballot the proposed reliability standard one additional time, with such adjustments in the

schedule as are necessary to meet the deadline contained in paragraph 2.1 of this Rule.

- 2.1 Such a re-ballot shall be completed within forty-five (45) days of the remand. The Standards Committee memorandum shall be included in the materials made available to the ballot pool in connection with the re-ballot.
- 2.2 In any such re-ballot, negative votes without comments related to the proposal shall be counted for purposes of establishing a quorum, but only affirmative votes and negative votes with comments related to the proposal shall be counted for purposes of determining the number of votes cast and whether the proposed standard has been approved.
3. If the re-balloted proposed reliability standard achieves at least an affirmative two-thirds majority vote of the weighted segment votes cast, with a quorum established, then the proposed reliability standard shall be deemed approved by the ballot pool and shall be considered by the Board of Trustees for approval.
4. If the re-balloted proposed reliability standard fails to achieve at least an affirmative two-thirds majority vote of the weighted segment votes cast, but does achieve at least a sixty percent affirmative majority of the weighted segment votes cast, with a quorum established, then the Board of Trustees has the authority to consider the proposed reliability standard for approval under the following procedures:
  - 4.1 The Board of Trustees shall issue notice of its intent to consider the proposed reliability standard and shall solicit written public comment particularly focused on the technical aspects of the provisions of the proposed reliability standard that address the specific matter identified in the regulatory directive, including whether or not the proposed standard is just, reasonable, not unduly discriminatory or preferential, in the public interest, helpful to reliability, practical, technically sound, technically feasible, and cost-justified.
  - 4.2 The Board of Trustees may, in its discretion, convene a public technical conference to receive additional input on the matter.
  - 4.3 After considering the developmental record, the comments received during balloting and the additional input received under paragraphs 4.1 and 4.2 of this Rule, the Board of Trustees has authority to act on the proposed reliability standard.

- 4.3.1 If the Board of Trustees finds that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to approve the proposed reliability standard and direct that it be filed with applicable ERO governmental authorities with a request that it be made effective.
  - 4.3.2 If the Board of Trustees is unable to find that the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is helpful to reliability, practical, technically sound, technically feasible, and cost-justified, then it has authority to treat the proposed reliability standard as a draft reliability standard and direct that the draft reliability standard and complete developmental record, including the additional input received under paragraphs 4.1 and 4.2 of this Rule, be filed with the applicable ERO governmental authorities as a compliance filing in response to the order giving rise to the regulatory directive, along with a recommendation that the standard not be made effective and an explanation of the basis for the recommendation.
- 5. Upon a written finding by the Board of Trustees that standard drafting team has failed to develop, or a ballot pool has failed to approve, a proposed reliability standard that contains a provision to address a specific matter identified in a directive issued by an ERO governmental authority, the Board of Trustees has the authority to direct the Standards Committee (with the assistance of stakeholders and NERC staff) to prepare a draft reliability standard that addresses the regulatory directive, taking account of the entire developmental record pertaining to the matter. If the Standards Committee fails to prepare such draft reliability standard, the Board of Trustees may direct NERC management to prepare such draft reliability standard.
  - 5.1 The Board of Trustees may, in its discretion, convene a public technical conference to receive input on the matter. The draft reliability standard shall be posted for a 45-day public comment period.
  - 5.2 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of



Trustees finds that the draft reliability standard, with such modifications as the Board of Trustees determines are appropriate in light of the comments received, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to approve the draft standard and direct that the proposed standard be filed with ERO governmental authorities with a request that the proposed standard be made effective.

- 5.3 If, after considering the entire developmental record (including the comments received under paragraph 5.1 of this Rule), the Board of Trustees is unable to find that the draft reliability standard, even with modifications, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, considering (among other things) whether it is practical, technically sound, technically feasible, cost-justified and serves the best interests of reliability of the bulk power system, then the Board of Trustees has the authority to direct that the draft standard and complete developmental record be filed as a compliance filing in response to the regulatory directive with the ERO governmental authority issuing the regulatory directive, with a recommendation that the draft standard not be made effective.
  - 5.4 The filing of the reliability standard under either paragraph 5.2 or paragraph 5.3 of this Rule shall include an explanation of the basis for the decision by the Board of Trustees.
  - 5.5 A reliability standard approved under paragraph 5 of this Rule shall not be eligible for submission as an American National Standard.
6. NERC shall on or before March 31<sup>st</sup> of each year file a report with applicable ERO governmental authorities on the status and timetable for addressing each outstanding directive to address a specific matter received from an applicable ERO governmental authority.

## SECTION 400 — COMPLIANCE ENFORCEMENT

### 401. Scope of the NERC Compliance Enforcement Program

1. **Components of the NERC Compliance Enforcement Program** — NERC shall develop and implement a NERC Compliance Monitoring and Enforcement Program to promote the reliability of the bulk power system by enforcing compliance with approved reliability standards in those regions of North American in which NERC and/or a regional entity (pursuant to a delegation agreement with NERC that has been approved by the applicable ERO governmental authority) has been given enforcement authority. There are four distinct parts of the NERC Monitoring and Compliance Enforcement Program: (1) NERC's oversight of the regional entity compliance programs (Section 402), (2) the definition of the required regional entity compliance enforcement program attributes (Section 403), (3) NERC's monitoring of regional entity compliance with reliability standards (Section 404), and (4) the monitoring of compliance with reliability standards that are applicable to NERC (Sections 405–406).
2. **Who Must Comply** — Where required by applicable legislation, regulation, rule or agreement, all bulk power system owners, operators, and users, regional entities, and NERC, are required to comply with all approved NERC reliability standards at all times. Regional reliability standards and regional variances approved by NERC and the applicable ERO governmental authority shall be considered NERC reliability standards and shall apply to all bulk power system owners, operators, or users responsible for meeting those standards within the regional entity boundaries, whether or not the bulk power system owner, operator, or user is a member of the regional entity.
3. **Data Access** — All bulk power system owners, operators, and users shall provide to NERC and the applicable regional entity such information as is necessary to monitor compliance with the reliability standards. NERC and the applicable regional entity will define the data retention and reporting requirements in the reliability standards and compliance reporting procedures.
4. **Role of Regional Entities in the Compliance Enforcement Program** — Each regional entity that has been delegated authority through a delegation agreement or other legal instrument approved by the applicable ERO governmental authority shall, in accordance with the terms of the approved delegation agreement, administer a regional entity compliance enforcement program to meet the NERC Compliance Monitoring and Enforcement Program goals and the requirements in this Section 400.
5. **Program Continuity** — NERC will ensure continuity of compliance monitoring and enforcement within the geographic boundaries of a regional entity in the event that NERC does not have a delegation agreement, or the regional entity withdraws from the agreement or does not operate its compliance enforcement program in accordance with the delegation agreement or other applicable requirements.

- 5.1 Should NERC not have a delegation agreement with a regional entity covering a geographic area, or a regional entity withdraws from an existing delegation agreement or the delegation agreement is otherwise terminated, NERC will directly administer the Compliance Monitoring and Enforcement Program applicable to owners, operators and users of the bulk-power system within that geographic area.
  1. This monitoring and enforcement will be accomplished by NERC and compliance staff from another approved regional entity.
  2. If an existing delegation agreement with a regional entity is terminating, the regional entity shall promptly provide to NERC all relevant compliance information regarding registered entities, contacts, prior compliance information and actions, mitigation plans, and remedial actions for the period in which the regional entity was responsible for administering the Compliance Monitoring and Enforcement Program.
  3. NERC will levy and collect all penalties directly and will utilize any penalty monies collected to offset the expenses of administering the compliance monitoring and enforcement program for the geographic area.
- 5.2 Should a regional entity seek to withdraw from its delegation agreement, NERC will seek agreement from another regional entity to amend its delegation agreement with NERC to extend that regional entity's boundaries for compliance monitoring and enforcement. In the event no regional entity is willing to accept this responsibility, NERC will administer the Compliance Monitoring and Enforcement Program within the geographical boundaries of the regional entity seeking to withdraw from the delegation agreement, in accordance with Section 401.5.1.
6. **Actively Monitored Requirements** — NERC, with input from the regional entities, stakeholders, and regulators, shall annually select a subset of the NERC reliability standards and requirements to be actively monitored and audited in the NERC annual compliance program. Compliance is required 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 NERC annual compliance program.
7. **Penalties, Sanctions, and Remedial Actions** — NERC and regional entities will apply penalties, sanctions, and remedial actions that bear a reasonable relation to the seriousness of a violation and take into consideration timely remedial efforts as defined in the NERC *Sanction Guidelines*, which is incorporated into these rules as **Appendix 4B**.
8. **Multiple Enforcement Actions** – A registered entity shall not be subject to an enforcement action by NERC and a regional entity for the same violation.
9. **Records** — NERC shall maintain a record of each compliance submission, including self-reported, possible, alleged, and confirmed violations of approved

reliability standards; associated penalties, sanctions, remedial actions and settlements; and the status of mitigation actions.

10. **Confidential Information** — NERC will treat all possible and alleged violations of reliability standards and matters related to a compliance monitoring and enforcement program process, including the status of any compliance investigation or other compliance monitoring and enforcement process, as confidential in accordance with Section 1500.

The types of information that will be considered confidential and will not (subject to statutory and regulatory requirements) be disclosed in any public information reported by NERC are identified in Section 1500. Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident, will be identified and protected from public disclosure as critical energy infrastructure information in accordance with Section 1500.

The regional entity and NERC shall give bulk power system owners, operators, and users a reasonable opportunity to demonstrate that information concerning a violation is confidential before such report is disclosed to the public.

11. **Public Posting** — When the affected bulk power system owner, operator, or user either agrees with a possible or alleged violation(s) of a reliability standard(s) or a report of a compliance audit or compliance investigation, or enters into a settlement agreement concerning a possible or alleged violation(s), or the time for submitting an appeal is passed, or all appeals processes are complete, NERC shall, subject to the confidentiality requirements of these rules, publicly post each confirmed violation, penalty or sanction, settlement agreement and final compliance audit or compliance investigation report, on its Web site.

11.1 Each bulk power system owner, operator, or user may provide NERC with a statement to accompany the violation or report to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.

11.2 In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) or other confidential information shall be redacted in accordance with Section 1500 and not be released publicly.

11.3 Subject to redaction of critical energy infrastructure information or other confidential information, for each confirmed violation or settlement relating to a possible violation or an alleged violation, the public posting shall include the name of any relevant entity, the nature, time period, and circumstances of such possible, alleged or confirmed violation, any mitigation plan to be implemented by the entity in connection with the violation or settlement, and sufficient facts to assist owners, operators and

users of the bulk power system to evaluate whether they have engaged in or are engaging in similar activities.

12. **Violation Information Review** — NERC compliance monitoring and enforcement program staff shall periodically review and analyze all reports of possible, alleged and confirmed violations to identify trends and other pertinent reliability issues.

#### **402. NERC Oversight of the Regional Entity Compliance Enforcement Programs**

1. **NERC Monitoring Program** — NERC shall have a program to monitor the compliance enforcement program of each regional entity that has been delegated authority. The objective of this monitoring program shall be to ensure that the regional entity carries out its compliance enforcement program in accordance with these rules and the terms of the delegation agreement, and to ensure consistency and fairness of the regional entity's compliance enforcement program. Oversight and monitoring by NERC shall be accomplished through an annual compliance enforcement program review, program audits, and regular evaluations of regional entity compliance enforcement program performance as described below.
  - 1.1 **NERC Review of Regional Compliance Enforcement Program Annual Plans** — NERC shall require each regional entity to submit for review and approval an annual compliance enforcement program implementation plan. NERC shall review each regional entity's compliance enforcement program annual implementation plan and shall accept the plan if it meets NERC requirements and the requirements of the delegation agreement.
  - 1.2 **Regional Entity Program Evaluation** — NERC shall annually evaluate the goals, tools, and procedures of each regional entity compliance enforcement program to determine the effectiveness of each regional entity program, using criteria developed by the NERC Compliance and Certification Committee.
  - 1.3 **Regional Entity Program Audit** — At least once every five years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, including Appendix 4C, the delegation agreement, directives in effect pursuant to the delegation agreement, approved regional entity annual compliance enforcement program annual implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity. In addition, audits of cross-border regional entities shall cover applicable requirements imposed on the regional entity by statute, regulation, or order of, or agreement with, provincial governmental and/or regulatory authorities for which NERC has auditing responsibilities over the regional entity's compliance with such requirements within Canada or Mexico. Participation of a representative of an applicable ERO

governmental authority shall be subject to the limitations of sections 3.1.6 and 8.0 of Appendix 4C of these rules of procedure regarding disclosures of non-public compliance information related to other jurisdictions. NERC shall maintain an audit procedure containing the requirements, steps, and timelines to conduct an audit of each regional entity compliance enforcement program. The current procedure is contained in the NERC Audit of Regional Entity Compliance Programs, which is incorporated into these rules as **Appendix 4A**.

1.3.1 NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibilities.

1.4 ERO governmental authorities will be allowed to participate as an observer in any audit conducted by NERC of a regional entity's compliance monitoring and enforcement program. A representative of the regional entity being audited will be allowed to participate in the audit as an observer.

2. **Consistency Among Regional Compliance Enforcement Programs** — To provide for a consistent compliance enforcement program for all bulk power system owners, operators, and users required to comply with approved reliability standards, NERC shall maintain a single, uniform Compliance Monitoring and Enforcement Program, which is incorporated into these rules of procedure as **Appendix 4C**. Any differences in regional entity program methods, including determination of violations and penalty assessment, shall be justified on a case-by-case basis and fully documented in each regional entity delegation agreement.

2.1 NERC shall ensure that each of the regional entity compliance enforcement programs meets these Rules of Procedure, including **Appendix 4C**, and follows the terms of the delegation agreement and the approved regional entity compliance enforcement program annual plan.

2.2 NERC shall maintain a single, uniform compliance monitoring and enforcement program in **Appendix 4C** containing the procedures to ensure the consistency and fairness of the processes used to determine regional entity compliance enforcement program findings of compliance and noncompliance, and the application of penalties and sanctions.

2.3 NERC shall periodically conduct regional entity compliance manager forums. These forums shall use the results of regional entity compliance program audits and findings of NERC compliance staff to identify and refine regional entity compliance program differences into a set of best practices over time.

3. **Information Collection and Reporting** — NERC and the regional entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.
4. **Violation Disclosure** — NERC shall disclose all confirmed violations and maintain as confidential possible violations and alleged violations, according to the reporting and disclosure process in **Appendix 4C**.
5. **Authority to Determine Noncompliance, Levy Penalties and Sanctions, and Issue Remedial Action Directives** — NERC and regional entity compliance staff shall have the authority and responsibility to make initial determinations of compliance or noncompliance, and where authorized by the appropriate governmental authorities or where otherwise authorized, to determine penalties and sanctions for noncompliance with a reliability standard, and issue remedial action directives. Regional entity boards or a compliance panel reporting directly to the regional entity board will be vested with the authority for the overall regional entity compliance program and have the authority to impose penalties and sanctions on behalf of NERC, where authorized by applicable legislation or agreement. Remedial action directives may be issued by NERC or a regional entity that is aware of a bulk power system owner, operator, or user that is about to engage in an act or practice that would result in noncompliance with a reliability standard, where such directive is immediately necessary to protect the reliability of the bulk power system from an imminent threat. If, after receiving such a directive, the bulk power system owner, operator, or user does not take appropriate action to avert a violation of a reliability standard, NERC may petition the applicable ERO governmental authority to issue a compliance order.
6. **Due Process** — NERC shall establish and maintain a fair, independent, and nondiscriminatory appeals process. The appeals process is set forth in Sections 408-410. The process shall allow bulk power system owners, operators, and users to appeal the regional entity's findings of noncompliance and to appeal penalties, sanctions, and remedial actions that are levied by the regional entity. Appeals beyond the NERC process will be heard by the applicable ERO governmental authority.

The appeals process will also allow for appeals to NERC of any findings of noncompliance issued by NERC to a regional entity for standards and requirements where the regional entity is monitored for compliance to a reliability standard. No monetary penalties will be levied in these matters; however sanctions, remedial actions, and directives to comply may be applied by NERC.
7. **Conflict Disclosure** — NERC shall disclose to the appropriate governmental authorities any potential conflicts between a market rule and the enforcement of a regional reliability standard.
8. **Confidentiality** — To maintain the integrity of the NERC Compliance Monitoring and Enforcement Program, NERC and regional entity staff, audit team

members, and committee members shall maintain the confidentiality of information obtained and shared during compliance monitoring and enforcement processes including investigations, audits, spot checks, drafting of reports, appeals, and closed meetings.

- 8.1 NERC and the regional entity shall have in place appropriate codes of conduct and confidentiality agreements for staff and other compliance enforcement program participants.
  - 8.2 Individuals not bound by NERC or regional entity codes of conduct who serve on compliance-related committees or audit teams shall sign a NERC confidentiality agreement prior to participating on the committee or team.
  - 8.3 Information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall not be distributed outside of a committee or team, nor released publicly. Other information subject to confidentiality is identified in Section 1500.
  - 8.4 In the event that a staff, committee, or audit team member violates any of the confidentiality rules set forth above, the staff, committee, or audit team member and any member organization with which the individual is associated may be subject to appropriate action by the regional entity or NERC, including prohibiting participation in future compliance enforcement activities.
9. **Auditor Training** — NERC shall develop and provide training in auditing skills to all people who participate in NERC and regional entity compliance enforcement audits. Training for NERC and regional entity personnel and others who serve as compliance audit team leaders shall be more comprehensive than training given to industry subject matter experts and regional entity members. Training for regional entity members may be delegated to the regional entity.

#### **403. Required Attributes of Regional Entity Compliance Enforcement Programs**

Each regional entity compliance enforcement program shall promote excellence in the enforcement of reliability standards. To accomplish this goal, each regional entity compliance enforcement program shall (i) conform to and comply with the NERC uniform Compliance Monitoring and Enforcement Program, **Appendix 4C** to these rules of procedure, except to the extent of any deviations that are stated in the regional entity's delegation agreement, and (ii) meet all of the attributes set forth in this Section 403.

##### **Program Structure**

1. **Independence** — Each regional entity's governance of its compliance enforcement program shall exhibit independence, meaning the compliance enforcement program shall be organized so that its compliance monitoring and enforcement activities are carried out separately from other activities of the regional entity. The program shall not be unduly influenced by the bulk power system owners, operators, and users being monitored or other regional entity



activities that are required to meet the reliability standards. Regional entities must include rules providing that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.

2. **Exercising Authority** — Each regional entity compliance enforcement program shall exercise the responsibility and authority in carrying out the delegated functions of the NERC Compliance Monitoring and Enforcement Program in accordance with delegation agreements and **Appendix 4C**. These functions include but are not limited to: data gathering, data reporting, compliance investigations, compliance auditing activities, evaluating compliance and noncompliance, imposing penalties and sanctions, and approving and tracking mitigation actions.
3. **Delegation of Authority** — To maintain independence, fairness, and consistency in the NERC Compliance Monitoring and Enforcement Program, a regional entity shall not sub-delegate its compliance enforcement program duties to entities or persons other than the regional entity compliance enforcement program staff, unless (i) required by statute or regulation in the applicable jurisdiction, or (ii) by agreement with express approval of NERC and of FERC or other appropriate ERO governmental authority, to another regional entity.
4. **Hearings of Contested Findings or Sanctions** — The regional entity board or compliance panel reporting directly to the regional entity board (with appropriate recusal procedures) will be vested with the authority for conducting compliance hearings in which any bulk power system owner, operator, or user provided notice of an alleged violation may present facts and other information to contest a notice of alleged violation or any proposed penalty, sanction, any remedial action directive, or any mitigation plan component. Compliance hearings shall be conducted in accordance with the Hearing Process set forth in Attachment 2 to **Appendix 4C**. If a stakeholder body serves as the hearing body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.

### **Program Resources**

5. **Regional Entity Compliance Staff** — Each regional entity shall have sufficient resources to meet delegated compliance monitoring and enforcement responsibilities, including the necessary professional staff to manage and implement the regional entity compliance monitoring and enforcement program.
6. **Regional Entity Compliance Staff Independence** — The regional entity compliance monitoring and enforcement program staff shall be capable of and required to make all determinations of compliance and noncompliance and determine penalties, sanctions, and remedial actions.
  - 6.1 Regional entity compliance enforcement program staff shall not have a conflict of interest, real or perceived, in the outcome of compliance monitoring and enforcement processes, reports, or sanctions. The regional entity shall have in effect a conflict of interest policy.

- 6.2 Regional entity compliance monitoring and enforcement program staff shall have the authority and responsibility to carry out compliance monitoring and enforcement processes (with the input of industry subject matter experts), make determinations of compliance or noncompliance, and levy penalties and sanctions without interference or undue influence from regional entity members and their representative or other industry entities.
  - 6.3 Regional entity compliance monitoring and enforcement program staff may call upon independent technical subject matter experts who have no conflict of interest in the outcome of the compliance monitoring and enforcement process to provide technical advice or recommendations in the determination of compliance or noncompliance.
  - 6.4 Regional entity compliance monitoring and enforcement program staff shall abide by the confidentiality requirements contained in Section 1500 and **Appendix 4C** of these Rules of Procedure, the NERC delegation agreement and other confidentiality agreements required by the NERC Compliance Monitoring and Enforcement Program.
  - 6.5 Contracting with independent consultants or others working for the regional entity compliance enforcement program shall be permitted provided the individual has not received compensation from a bulk power system owner, operator, or user being monitored for a period of at least the preceding six months and owns no financial interest in any bulk power system owner, operator, or user being monitored for compliance to the reliability standard, regardless of where the bulk power system owner, operator, or user operates. Any such individuals for the purpose of these rules shall be considered as augmenting regional entity compliance staff.
- 7. Use of Industry Subject Matter Experts and Regional Entity Members —** Industry experts and regional entity members may be called upon to provide their technical expertise in compliance monitoring and enforcement program activities.
- 7.1 The regional entity shall have procedures defining the allowable involvement of industry subject matter experts and regional entity members. The procedures shall address applicable antitrust laws and conflicts of interest.
  - 7.2 Industry subject matter experts and regional entity members shall have no conflict of interest or financial interests in the outcome of their activities.
  - 7.3 Regional entity members and industry subject matter experts, as part of teams or regional entity committees, may provide input to the regional entity compliance staff so long as the authority and responsibility for (i) evaluating and determining compliance or noncompliance and (ii) levying penalties, sanctions, or remedial actions shall not be delegated to any person or entity other than the compliance staff of the regional entity. Industry subject matter experts, regional entity members, or regional entity

committees shall not make determinations of noncompliance or levy penalties, sanctions, or remedial actions. Any committee involved shall be organized so that no two industry sectors may control any decision and no single segment may veto any matter related to compliance.

- 7.4 Industry subject matter experts and regional entity members shall sign a confidentiality agreement appropriate for the activity being performed.
- 7.5 All industry subject matter experts and regional entity members participating in compliance audits and compliance investigations shall successfully complete auditor training provided by NERC or the regional entity prior to performing these activities

### **Program Design**

- 8. **Regional Entity Compliance Enforcement Program Content** — All approved reliability standards shall be included in the regional entity compliance monitoring and enforcement program for all bulk power system owners, operators, and users within the defined boundaries of the regional entity. Compliance to approved regional entity reliability standards is applicable only within the footprint of the regional entity that submitted those particular regional entity reliability standards for approval. NERC will identify the minimum set of reliability standards and requirements to be actively monitored by the regional entity in a given year.
- 9. **Antitrust Provisions** — Each regional entity’s compliance monitoring and enforcement program shall be structured and administered to abide by U.S. antitrust law and Canadian competition law.
- 10. **Information Submittal** — All bulk power system owners, operators, and users within the regional entity responsible for complying with reliability standards shall submit timely and accurate information when requested by the regional entity or NERC. NERC and the regional entities shall preserve any mark of confidentiality on information submitted pursuant to Section 1502.1.
  - 10.1 Each regional entity has the authority to collect the necessary information to determine compliance and shall develop processes for gathering data from the bulk power system owners, operators, and users the regional entity monitors.
  - 10.2 The regional entity or NERC has the authority to request information from bulk power system owners, operators, and users pursuant to section 401.3 or this section 403.10 without invoking a specific compliance monitoring and enforcement process in **Appendix 4C**, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the compliance monitoring and enforcement process(es).

- 10.3 When required or requested, the regional entities shall report information to NERC promptly and in accordance with **Appendix 4C** and other NERC procedures.
  - 10.4 Regional entities shall notify NERC of all possible, alleged and confirmed violations of NERC reliability standards by entities over which the regional entity has compliance monitoring and enforcement authority , in accordance with **Appendix 4C**.
  - 10.5 A bulk power system owner, operator, or user found in noncompliance with a reliability standard shall submit a mitigation plan with a timeline addressing how the noncompliance will be corrected. The regional entity compliance staff shall review and approve the mitigation plan in accordance with **Appendix 4C**.
  - 10.6 An officer of a bulk power system owner, operator, or user shall certify as accurate all compliance data self-reported to the regional entity compliance monitoring and enforcement program.
  - 10.7 Regional entities shall develop and implement procedures to verify the compliance information submitted by bulk power system owners, operators, and users.
11. **Compliance Audits of Bulk Power System Owners, Operators, and Users** — Each regional entity will maintain and implement a program of proactive compliance audits of bulk power system owners, operators, and users responsible for complying with reliability standards, in accordance with **Appendix 4C**. A compliance audit is a process in which a detailed review of the activities of a bulk power system owner, operator, or user is performed to determine if that bulk power system owner, operator, or user is complying with approved reliability standards.
- 11.1 For an entity registered as a balancing authority, reliability coordinator, or transmission operator, the compliance audit will be performed at least once every three years. For other bulk power system owners, operators, and users on the NERC Compliance Registry, compliance audits shall be performed on a schedule established by NERC.
  - 11.2 Audits of balancing authorities, reliability coordinators, and transmission operators will include a component at the audited entity’s site. For other bulk power system owners, operators, and users on the NERC Compliance Registry, the audit may be either an on-site audit or based on review of documents, as determined to be necessary and appropriate by NERC or regional entity compliance monitoring and enforcement program, staff.
  - 11.3 Compliance audits must include a detailed review of the activities of the bulk power system owner, operator, or user to determine if the bulk power system owner, operator, or user is complying with all approved reliability

standards identified for audit by NERC. The compliance audit shall include a review of supporting documentation and evidence used by the bulk power system owner, operator or user to demonstrate compliance for an appropriate period prior to the compliance audit.

12. **Confidentiality of Compliance Monitoring and Enforcement Processes** — All compliance monitoring and enforcement processes, and information obtained from such processes, are to be non-public and treated as confidential in accordance with Section 1500 and **Appendix 4C** of these rules of procedure, unless NERC, the regional entity or FERC or another applicable governmental authority with jurisdiction determines a need to conduct a compliance monitoring and enforcement program process on a public basis, provided, that NERC and the regional entities shall publish (i) schedules of compliance audits scheduled in each year, (ii) a public report of each compliance audit, and (iii) notices of penalty and settlement agreements. Advance authorization from the applicable ERO governmental authority is required to make public any compliance monitoring and enforcement process or any information relating to a compliance monitoring and enforcement process, or to permit interventions when determining whether to impose a penalty. This prohibition on making public any compliance monitoring and enforcement process does not prohibit NERC or a regional entity from publicly disclosing (i) the initiation of or results from an analysis of a significant system event under Section 807 or of off-normal events or system performance under Section 808, or (ii) information of general applicability and usefulness to owners, operators, and users of the bulk power system concerning reliability and compliance matters, so long as specific allegations or conclusions regarding possible or alleged violations of reliability standards are not included in such disclosures.
13. **Critical Energy Infrastructure Information** — Information that would jeopardize bulk power system reliability, including information relating to a Cyber Security Incident will be identified and protected from public disclosure as critical energy infrastructure information. In accordance with Section 1500, information deemed by a bulk power system owner, operator, or user, regional entity, or NERC as critical energy infrastructure information shall be redacted according to NERC procedures and shall not be released publicly.
14. **Penalties, Sanctions, and Remedial Actions** — Each regional entity will apply all penalties, sanctions, and remedial action directives in accordance with the approved *Sanction Guidelines*, **Appendix 4B** to these rules of procedure. Any changes to the *Sanction Guidelines* to be used by any regional entity must be approved by NERC and submitted to the appropriate ERO governmental body for approval. All confirmed violations, penalties, and sanctions will be provided to NERC for review and filing with applicable ERO governmental authorities as a notice of penalty, in accordance with **Appendix 4C**.
15. **Regional Hearing Process** — Each regional entity compliance enforcement program shall establish and maintain a fair, independent, and nondiscriminatory

process for hearing contested violations and any penalties or sanctions levied, in conformance with Attachment 2 to **Appendix 4C** to these rules of procedure and any deviations therefrom that are set forth in the regional entity's delegation agreement.. The hearing process shall allow bulk power system owners, operators, and users to contest findings of compliance violations, any penalties and sanctions that are proposed to be levied, proposed remedial action directives, and components of proposed mitigation plans. The regional entity hearing process shall be conducted before the regional entity board or a balanced committee established by and reporting to the regional entity board as the final adjudicator, provided, that Canadian provincial regulators may act as the final adjudicator in their respective jurisdictions. The regional entity hearing process shall (i) include provisions for recusal of any members of the hearing body with a potential conflict of interest, real or perceived, from all compliance matters considered by the hearing body for which the potential conflict of interest exists and (ii) provide that no two industry sectors may control any decision and no single segment may veto any matter brought before the hearing body after recusals.

Each regional entity will notify NERC of all hearings and NERC may observe any of the proceedings. Each regional entity will notify NERC of the outcome of all hearings.

If a bulk power system owner, operator, or user has completed the regional entity hearing process and desires to appeal the outcome of the hearing, the bulk power system owner, operator, or user shall appeal to NERC in accordance with Section 409 of these rules of procedure, except that a determination of violation or penalty that has been directly adjudicated by an ERO governmental authority shall be appealed with that ERO governmental authority.

16. **Annual Regional Entity Compliance Enforcement Program Implementation Plan** — Each regional entity shall annually develop and submit to NERC for approval a regional entity compliance enforcement implementation plan in accordance with **Appendix 4C** that identifies the reliability standards and requirements to be actively monitored (both those required by NERC and any additional reliability standards the regional entity proposes to monitor), and how each NERC and regional entity identified standard will be monitored, evaluated, reported, sanctioned, and appealed. These implementation plans will be submitted to NERC on the schedule established by NERC, generally on or about November 1 of the preceding year. In conjunction with the annual implementation plan, each regional entity must report to NERC regarding how it carried out its delegated compliance monitoring and enforcement authority in the previous year, the effectiveness of the program, and changes expected to correct any deficiencies identified. Each regional entity will provide its annual report on the schedule established by NERC, generally on or about February 15 of the following year.

**404. NERC Monitoring of Compliance for Regional Entities or Bulk Power Owners, Operator, or Users**

NERC shall monitor regional entity compliance with NERC reliability standards and, if no there is no delegation agreement in effect with a regional entity for the geographic area, shall monitor bulk power system owners, operators, and users for compliance with NERC reliability standards. Industry subject matter experts may be used as appropriate in compliance investigations, compliance audits, and other compliance activities, subject to confidentiality, antitrust, and conflict of interest provisions.

1. **NERC Obligations** — NERC compliance monitoring and enforcement staff shall monitor the compliance of the regional entity with the reliability standards for which the regional entities are responsible, in accordance with **Appendix 4C**. NERC shall actively monitor in its annual Compliance Enforcement and Monitoring Program selected reliability standards that apply to the regional entities. NERC shall evaluate compliance and noncompliance with all of the reliability standards that apply to the regional entities and shall impose sanctions, penalties, or remedial action directives when there is a finding of noncompliance. NERC shall post all violations of reliability standards that apply to the regional entities as described in the reporting and disclosure process in **Appendix 4C**.

In addition, NERC will directly monitor bulk power system owners, operators, and users for compliance with NERC Reliability Standards in any geographic area for which there is not a delegation agreement in effect with a regional entity, in accordance with **Appendix 4C**. In such cases, NERC will serve as the Compliance Enforcement Authority described in **Appendix 4C**. Compliance matters contested by bulk power system owners, operators, and users in such an event will be heard by the NERC Compliance and Certification Committee.

2. **Compliance Audit of the Regional Entity** — NERC shall perform a compliance audit of each regional entity responsible for complying with reliability standards at least once every three years. NERC shall make an evaluation of compliance based on the information obtained through the audit. After due process is complete, the final audit report shall be made public in accordance with the reporting and disclosure process in **Appendix 4C**.
3. **Appeals Process** — Any regional entity or bulk-power system owner, operator or user found by NERC, as opposed to a regional entity, to be in noncompliance with a reliability standard may appeal the findings of noncompliance with reliability standards and any sanctions or remedial action directives that are issued by, or mitigation plan components imposed by, NERC, pursuant to the processes described in Sections 408 through 410.

#### **405. Monitoring of Standards and Other Requirements Applicable to NERC**

The NERC Compliance and Certification Committee shall establish and implement a process to monitor NERC's compliance with the reliability standards that apply to NERC. The process shall use independent monitors with no conflict of interest, real or perceived, in the outcomes of the process. All violations shall be made public according to the reporting and disclosure process in **Appendix 4C**. The Compliance and Certification Committee will also establish a procedure for monitoring NERC's

compliance with its Rules of Procedure for the Standards Development, Compliance Enforcement, and Organization Registration and Certification Programs. Such procedures shall not be used to circumvent the appeals processes established for those programs.

**406. Independent Audits of the NERC Compliance Monitoring and Enforcement Program**

NERC shall provide for an independent audit of its compliance monitoring and enforcement program at least once every three years, or more frequently as determined by the board. The audit shall be conducted by independent expert auditors as selected by the board. The independent audit shall meet the following minimum requirements and any other requirements established by the NERC board.

1. **Effectiveness** — The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
2. **Relationship** — The audit shall evaluate the relationship between NERC and the regional entity compliance enforcement programs and the effectiveness of the programs in ensuring reliability.
3. **Final Report Posting** — The final report shall be posted by NERC for public viewing in accordance with **Appendix 4C**.
4. **Response to Recommendations** — If the audit report includes recommendations to improve the NERC Compliance Monitoring and Enforcement Program, the administrators of the NERC Compliance Monitoring and Enforcement Program shall provide a written response and plan to the board within 30 days of the release of the final audit report.

**407. Penalties, Sanctions, and Remedial Actions**

1. **NERC Review of Regional Penalties and Sanctions** — NERC shall review all penalties, sanctions, and remedial actions imposed by each regional entity for violations of reliability standards to determine if the regional entity's determination is supported by a sufficient record compiled by the regional entity, is consistent with the *Sanction Guidelines* incorporated into these rules as **Appendix 4B** and with other directives, guidance and directions issued by NERC pursuant to the delegation agreement, and is consistent with penalties, sanctions and remedial actions imposed by the regional entity and by other regional entities for violations involving the same or similar facts and circumstances.
2. **Developing Penalties and Sanctions** — The regional entity compliance monitoring and enforcement program staff shall use the *Sanction Guidelines*, which are incorporated into these rules as **Appendix 4B**, to develop an appropriate penalty, sanction, or remedial action for a violation, and shall notify NERC of the penalty or sanction.
3. **Effective Date of Penalty** — Where authorized by applicable legislation or agreement, no penalty imposed for a violation of a reliability standard shall take



effect until the thirty-first day after NERC files, with the applicable ERO governmental authority, a “notice of penalty” and the record of the proceedings in which the violation and penalty were determined, or such other date as ordered by the ERO applicable governmental authority.

**408. Review of NERC Decisions**

1. **Scope of Review** — A registered entity or a regional entity wishing to challenge a finding of noncompliance and the imposition of a penalty for a compliance measure directly administered by NERC, or a regional entity wishing to challenge a regional compliance program audit finding, may do so by filing a notice of the challenge with NERC’s director of compliance no later than 21 days after issuance of the notice of finding of violation or audit finding. Appeals by registered entities of decisions of regional entity hearing bodies shall be pursuant to section 409 .
2. **Contents of Notice** — The notice of challenge shall include the full text of the decision that is being challenged, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief.
3. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of challenge, the NERC Director of Compliance may file with the hearing body a response to the issues raised in the notice, with a copy to the regional entity.
4. **Hearing by Compliance and Certification Committee** — The NERC Compliance and Certification Committee shall provide representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program an opportunity to be heard and shall decide the matter based upon the filings and presentations made, with a written explanation of its decision.
5. **Appeal** — The regional entity, or registered entity may appeal the decision of the Compliance and Certification Committee by filing a notice of appeal with NERC’s director of compliance no later than 21 days after issuance of the written decision by the Compliance and Certification Committee. The notice of appeal shall include the full text of the written decision of the Compliance and Certification Committee that is being appealed, a concise statement of the error or errors contained in the decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not presented to the Compliance and Certification Committee.
6. **Response by NERC Compliance Monitoring and Enforcement Program** — Within 21 days after receiving a copy of the notice of appeal, the NERC Compliance Monitoring and Enforcement Program staff may file its response to the issues raised in the notice of appeal, with a copy to the entity filing the notice.

7. **Reply** — The entity filing the appeal may file a reply within 7 days.
8. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record, the response, and any reply. At its discretion, the Compliance Committee may invite representatives of the regional entity or registered entity, and the NERC Compliance Monitoring and Enforcement Program to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
9. **Impartiality** — No member of the Compliance and Certification Committee or the Board of Trustees Compliance Committee having an actual or perceived conflict of interest in the matter may participate in any aspect of the challenge or appeal except as a party or witness.
10. **Expenses** — Each party in the challenge and appeals processes shall pay its own expenses for each step in the process.
11. **Non-Public Proceedings** — All challenges and appeals shall be closed to the public to protect confidential information.

#### **409. Appeals from Final Decisions of Regional Entities**

1. **Time for Appeal** — An owner, operator or user of the bulk-power system wishing to appeal from a final decision of a regional entity that finds a violation of a reliability standard or imposes a penalty for violation of a reliability standard shall file its notice of appeal with NERC's director of compliance, with a copy to the regional entity, no later than 21 days after issuance of the final decision of the regional entity hearing body. The same appeal procedures will apply regardless of whether the matter first arose in a compliance investigation, compliance audit or self-report, other compliance monitoring and enforcement process, or in a reliability readiness evaluation.
2. **Contents** — The notice of appeal shall include the full text of the final decision of the regional entity hearing body that is being appealed, a concise statement of the error or errors contained in the final decision, a clear statement of the relief being sought, and argument in sufficient detail to justify such relief. No factual material shall be presented in the appeal that was not first presented during the compliance hearing before the regional entity hearing body.
3. **Response by Regional Entity** — Within 21 days after receiving a copy of the notice of appeal, the regional entity shall file the entire record of the matter with NERC's director of compliance, with a copy to the entity filing the notice, together with its response to the issues raised in the notice of appeal.
4. **Reply** — The entity filing the appeal may file a reply to the regional entity within 7 days.

5. **Decision** — The Compliance Committee of the NERC Board of Trustees shall decide the appeal, in writing, based upon the notice of appeal, the record of the matter from the regional entity, the response, and any reply filed with NERC. At its discretion, the Compliance Committee may invite representatives of the entity making the appeal and the regional entity to appear before the Committee. Decisions of the Compliance Committee shall be final, except for further appeal to the applicable ERO governmental authority.
6. **Expenses** — Each party in the appeals process shall pay its own expenses for each step in the process.
7. **Non-Public Proceedings** — All appeals shall be closed to the public to protect confidential information.

**410. Hold Harmless**

A condition of invoking the challenge or appeals processes under Section 408 or 409 is that the entity requesting the challenge or appeal agrees that neither NERC (defined to include its members, Board of Trustees, committees, subcommittees, staff and industry subject matter experts), any person assisting in the challenge or appeals processes, nor any company employing a person assisting in the challenge or appeals processes, shall be liable, and they shall be held harmless against the consequences of or any action or inaction or of any agreement reached in resolution of the dispute or any failure to reach agreement as a result of the challenge or appeals proceeding. This “hold harmless” clause does not extend to matters constituting gross negligence, intentional misconduct, or a breach of confidentiality.

**411. Requests for Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Reliability Standards**

A registered entity that is subject to a requirement of a NERC critical infrastructure protection reliability standard for which technical feasibility exceptions are permitted, may request a technical feasibility exception to the requirement, and the request will be reviewed, approved or disapproved, and if approved, implemented, in accordance with the NERC *Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standard*, Appendix 4D to these Rules of Procedure.

## SECTION 500 — ORGANIZATION REGISTRATION AND CERTIFICATION

### 501. Scope of the Organization Registration and Organization Certification Programs

The purpose of the Organization Registration Program is to clearly identify those entities that are responsible for compliance with the FERC approved reliability standards. Organizations that are registered are included on the NERC Compliance Registry (NCR) and are responsible for knowing the content of and for complying with all applicable reliability standards. Registered organizations are not and do not become members of NERC or a Regional Entity, by virtue of being listed on the NCR. Membership in NERC is governed by Article II of NERC's bylaws; membership in a Regional Entity or regional reliability organization is governed by that entity's bylaws or rules.

The purpose of the Organization Certification Program is to ensure that the new entity (i.e., applicant to be an RC, BA, or TOP that is not already performing the function for which it is applying to be certified as) has the tools, processes, training, and procedures to demonstrate their ability to meet the requirements/sub requirements of all of the reliability standards applicable to the function(s) for which it is applying thereby demonstrating the ability to become certified and then operational.

Organization Registration and Organization Certification may be delegated to Regional Entities in accordance with the procedures in this Section 500; the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into these rules as Appendix 5A; and, approved Regional Entity delegation agreements or other applicable agreements.

1. **NERC Compliance Registry** — NERC shall establish and maintain the NCR of the bulk power system owners, operators, and users that are subject to approved reliability standards.
  - 1.1 (a) The NCR shall set forth the identity and functions performed for each organization responsible for meeting requirements/sub-requirements of the reliability standards. Bulk power system owners, operators, and users (i) shall provide to NERC and the applicable Regional Entity information necessary to complete the registration, and (ii) shall provide NERC and the applicable Regional Entity with timely updates to information concerning the registered entity's ownership, operations, contact information, and other information that may affect the registered entity's registration status or other information recorded in the compliance registry.
    - (b) A generation or transmission cooperative, a joint-action agency or another organization may register as a Joint Registration Organization (JRO), in lieu of each of the JRO's members or related entities being registered individually for one or more functions. Refer to Section 507.

(c) Multiple entities may each register using a Coordinated Functional Registration (CFR) for one or more reliability standard(s) and/or for one or more requirements/sub-requirements within particular reliability standard(s) applicable to a specific function pursuant to a written agreement for the division of compliance responsibility. Refer to Section 508.

- 1.2 In the development of the NCR, NERC and the Regional Entities shall determine which organizations should be placed on the NCR based on the criteria provided in the NERC *Statement of Compliance Registry Criteria* which is incorporated into these rules as Appendix 5B.
- 1.3 NERC and the Regional Entities shall use the following rules for establishing and maintaining the NCR based on the registration criteria as set forth in Appendix 5B *Statement of Compliance Registry Criteria*:
  - 1.3.1 NERC shall notify each organization that it is on the NCR. The entity is responsible for compliance with all the reliability standards applicable to the functions for which it is registered from the time it receives the registration notification from NERC.
  - 1.3.2 Any organization receiving such a notice may challenge its placement on the NCR according to the process in Appendix 5A *Organization Registration and Organization Certification Manual*, Section V.
  - 1.3.3 The Compliance Committee of the Board of Trustees shall promptly issue a written decision on the challenge, including the reasons for the decision.
  - 1.3.4 The decision of the Compliance Committee of the Board of Trustees shall be final unless, within 21 days of the date of the Compliance Committee of the Board of Trustees decision, the organization appeals the decision to the applicable governmental authority.
  - 1.3.5 Each entity identified on the NCR shall notify its corresponding Regional Entity(s) of any corrections, revisions, deletions, changes in ownership, corporate structure, or similar matters that affect the entity's responsibilities with respect to the reliability standards. Failure to notify will not relieve the entity from any responsibility to comply with the reliability standards or shield it from any penalties or sanctions associated with failing to comply with the standards applicable to its associated registration.
- 1.4 For all geographical or electrical areas of the bulk power system, the registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the reliability

standards to the fullest extent practical, and (2) there is no unnecessary duplication of such coverage or of required oversight of such coverage. In particular the process shall:

- 1.4.1 Ensure that all areas are under the oversight of one and only one Reliability Coordinator.
  - 1.4.2 Ensure that all Balancing Authorities and Transmission Operator entities<sup>2</sup> are under the responsibility of one and only one Reliability Coordinator.
  - 1.4.3 Ensure that all transmission facilities of the bulk power system are the responsibility and under the control of one and only one Transmission Planner, Planning Authority, and Transmission Operator.
  - 1.4.4 Ensure that all loads and generators are under the responsibility and control of one and only one Balancing Authority.
- 1.5 NERC shall maintain the NCR of organizations responsible for meeting the requirements/sub-requirements of the reliability standards currently in effect on its Web site and shall update the NCR monthly.

2. **Entity Certification** — NERC shall provide for certification of all entities with primary reliability responsibilities requiring certification. This includes those entities that satisfy the criteria established in the NERC Provisional Certification Process. The NERC programs shall:

- 2.1 Evaluate and certify the competency of entities performing reliability functions. The entities presently expected to be certified include Reliability Coordinators, Transmission Operators, and Balancing Authorities.
- 2.2 Evaluate and certify each applicant's ability to meet the requirements for certification.
- 2.3 Maintain process documentation.
- 2.4 Maintain records of currently certified entities.
- 2.5 Issue a certification document to the applicant that successfully demonstrates its competency to perform the evaluated functions.

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<sup>2</sup> Some organizations perform the listed functions (e.g., balancing authority, transmission operator) over areas that transcend the footprints of more than one reliability coordinator. Such organizations will have multiple registrations, with each such registration corresponding to that portion of the organization's overall area that is within the footprint of a particular reliability coordinator.

**3. Delegation and Oversight**

- 3.1 NERC may delegate responsibilities for Organization Registration and Organization Certification to Regional Entities in accordance with requirements established by NERC. Delegation will be via the delegation agreement between NERC and the Regional Entity or other applicable agreement. The Regional Entity shall administer Organization Registration and Organization Certification Programs in accordance with such delegations to meet NERC's programs goals and requirements subject to NERC oversight.
- 3.2 NERC shall develop and maintain a plan to ensure the continuity of Organization Registration and Organization Certification within the geographic or electrical boundaries of a Regional Entity in the event that no entity is functioning as a Regional Entity for that region, or the Regional Entity withdraws as a Regional Entity, or does not operate its Organization Registration and Organization Certification Programs in accordance with delegation agreements.
- 3.3 NERC shall develop and maintain a program to monitor and oversee the NERC Organization Registration and Organization Certification Programs activities that are delegated to each Regional Entity through a delegation agreement or other applicable agreement.
  - 3.3.1 This program shall monitor whether the Regional Entity carries out those delegated activities in accordance with NERC requirements, and whether there is consistency, fairness of administration, and comparability.
  - 3.3.2 Monitoring and oversight shall be accomplished through direct participation in the Organization Registration and Organization Certification Programs with periodic reviews of documents and records of both programs.

**502. Organization Registration and Organization Certification Program Requirements**

- 1. NERC shall maintain the Organization Registration and Organization Certification Programs.
  - 1.1 The roles and authority of Regional Entities in the programs are delegated from NERC pursuant to the Rules of Procedure through regional delegation agreements or other applicable agreements.
  - 1.2 Processes for the programs shall be administered by NERC and the Regional Entities. Materials that each Regional Entity uses are subject to review and approval by NERC.

- 1.3 The appeals process for the Organization Registration and Organization Certification Programs are identified in Appendix 5A *Organization Registration and Organization Certification Manual*, Sections V and VI, respectively.
- 1.4 The certification team membership is identified in Appendix 5A *Organization Registration and Organization Certification Manual*, Section IV.8.d.
2. To ensure consistency and fairness of the Organization Registration and Organization Certification Programs, NERC shall develop procedures to be used by all Regional Entities and NERC in accordance with the following criteria:
  - 2.1 NERC and the Regional Entities shall have data management processes and procedures that provide for confidentiality, integrity, and retention of data and information collected.
  - 2.2 Documentation used to substantiate the conclusions of the Regional Entity/ NERC related to registration and/or certification must be retained by the Regional Entity for (6) six years, unless a different retention period is otherwise identified, for the purposes of future audits of these programs.
  - 2.3 To maintain the integrity of the NERC Organization Registration and Organization Certification Programs, NERC, Regional Entities, certification team members, program audit team members (Section 506), and committee members shall maintain the confidentiality of information provided by an applicant or entities.
    - 2.2.1 NERC and the Regional Entities shall have appropriate codes of conduct and confidentiality agreements for staff, certification team, certification related committees, and certification program audit team members.
    - 2.2.2 NERC, Regional Entities, certification team members, program audit team members and committee members shall maintain the confidentiality of any registration or certification-related discussions or documents designated as confidential (see Section 1500 for types of confidential information).
    - 2.2.3 NERC, Regional Entities, certification team members, program audit team members and committee members shall treat as confidential the individual comments expressed during evaluations, program audits and report-drafting sessions.
    - 2.2.4 Copies of notes, draft reports, and other interim documents developed or used during an entity certification evaluation or program audit shall be destroyed after the public posting of a final, uncontested report.



2.2.5 Information deemed by an applicant, entity, a Regional Entity, or NERC as confidential, including critical energy infrastructure information, shall not be released publicly or distributed outside of a committee or team.

2.2.6 In the event that an individual violates any of the confidentiality rules set forth above, that individual and any member organization with which the individual is associated will be subject to immediate dismissal from the audit team and may be prohibited from future participation in compliance program activities by the Regional Entity or NERC.

2.2.7 NERC shall develop and provide training in auditing skills to all individuals prior to their participation in certification evaluations. Training for certification team leaders shall be more comprehensive than the training given to industry subject matter experts and Regional Entity members. Training for Regional Entity members may be delegated to the Regional Entity.

2.4 An applicant that is determined to be competent to perform a function after completing all certification requirements shall be deemed certified by NERC to perform that function for which it has demonstrated full competency.

2.4.1 All NERC certified entities shall be included on the NCR.

### **503. Regional Entity Implementation of Organization Registration and Organization Certification Program Requirements**

1. **Delegation** — Recognizing the Regional Entity’s knowledge of and experience with their members, NERC may delegate responsibility for Organization Registration and Organization Certification to the Regional Entity through a delegation agreement.

2. **Registration** — The following Organization Registration activities shall be managed by the Regional Entity per the NERC *Organization Registration and Organization Certification Manual*, which is incorporated into the Rules of Procedure as Appendix 5A *Organization Registration and Organization Certification Manual*:

2.1 Regional entities shall verify that all Reliability Coordinators, Balancing Authorities, and Transmission Operators meet the registration requirements of Section 501(1.4).

3. **Certification** — The following Organization certification activities shall be managed by the Regional Entity in accordance with an approved delegation agreement or another applicable agreement:

- 3.1 An entity seeking certification to perform one of the functions requiring certification shall contact the Regional Entity for the region(s) in which it plans to operate to apply for certification.
- 3.2 An entity seeking certification and other affected entities shall provide all information and data requested by NERC or the Regional Entity to conduct the certification process.
- 3.3 Regional Entities shall notify NERC of all certification applicants.
- 3.4 NERC and/or the Regional Entity shall evaluate the competency of entities requiring certification to meet the NERC certification requirements.
- 3.5 NERC or the Regional Entity shall establish certification procedures to include evaluation processes, schedules and deadlines, expectations of the applicants and all entities participating in the evaluation and certification processes, and requirements for certification team members.
  - 3.5.1 The NERC / Regional Entity certification procedures will include provisions for on-site visits to the applicant's facilities to review the data collected through questionnaires, interviewing the operations and management personnel, inspecting the facilities and equipment (including requesting a demonstration of all tools identified in the certification process), reviewing all necessary documents and data (including all agreements, processes, and procedures identified in the certification process), reviewing certification documents and projected system operator work schedules, and reviewing any additional documentation needed to support the completed questionnaire or inquiries arising during the site visit.
  - 3.5.2 The NERC/ Regional Entity certification procedures will provide for preparation of a written report by the certification team, detailing any deficiencies that must be resolved prior to granting certification, along with any other recommendations for consideration by the applicant, the Regional Entity, or NERC.

#### **504. Appeals**

1. NERC shall maintain an appeals process to resolve any disputes related to registration or certification activities per the *Organization Registration and Organization Certification Manual*, which is incorporated in these rules as Appendix 5A.
2. The Regional Entity certification appeals process shall culminate with the regional board or a committee established by and reporting to the regional board as the final adjudicator, provided that where applicable, Canadian provincial governmental authorities may act as the final adjudicator in their jurisdictions.

NERC shall be notified of all appeals and may observe any proceedings (Appendix 5A *Organization Registration and Organization Certification Manual*).

**505. Program Maintenance**

NERC shall maintain its program materials, including such manuals or other documents as it deems necessary, of the governing policies and procedures of the Organization Registration and Organization Certification Programs.

**506. Independent Audit of NERC Organization Registration and Organization Certification Program**

1. NERC, through the Compliance and Certification Committee, shall provide for an independent audit of its Organization Registration and Organization Certification Programs at least once every three years, or more frequently, as determined by the Board. The audit shall be conducted by independent expert auditors as selected by the Board.
2. The audit shall evaluate the success, effectiveness and consistency of the NERC Organization Registration and Organization Certification Programs.
3. The final report shall be posted by NERC for public viewing.
4. If the audit report includes recommendations to improve the program, the administrators of the program shall provide a written response to the Board within 30 days of the final report, detailing the disposition of each and every recommendation, including an explanation of the reasons for rejecting a recommendation and an implementation plan for the recommendations accepted.

**507. Provisions Relating to Joint Registration Organizations (JRO)**

1. In addition to registering as the entity responsible for all functions that it performs itself, an entity may register as a JRO on behalf of one or more of its members or related entities for one or more functions for which such members or related entities would otherwise be required to register and, thereby, accept on behalf of such members or related entities all compliance responsibility for that function or those functions including all reporting requirements. Any entity seeking to register as a JRO must submit a written agreement with its members or related entities for all requirements/sub-requirements for the function(s) for which the entity is registering for and takes responsibility for, which would otherwise be the responsibility of one or more of its members or related entities. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the JRO registration.

2. The JRO registration data must include the same registration information as a normal compliance registration entry. The JRO is responsible for providing all of the information and data, including submitting reports, as needed by the Regional Entity for performing assessments of compliance.
3. The Regional Entity shall notify NERC of each JRO that the Regional Entity accepts. The notification will identify the point of contact and the function(s) being registered for on behalf of its members or related entities.
4. For purposes of compliance audits, the Regional Entity shall keep a list of all JROs. This document shall contain a list of each JRO's members or related entities and the function(s) for which the JRO is registered for that member(s) or related entity(s). It is the responsibility of the JRO to provide the Regional Entity with this information as well as the applicable JRO agreement(s).
5. The Regional Entity may request clarification of any list submitted to it that identifies the members of the JRO and may request such additional information as the Regional Entity deems appropriate.
6. The Regional Entity's acceptance of a JRO shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the JRO will meet the registration requirements of Section 501(1.4).
7. NERC shall maintain, and post on its Web site, a JRO registry listing all JRO registrations that have been reviewed and accepted by the Regional Entity. The posting shall identify the JRO entity taking compliance responsibilities for itself and its members.
8. The JRO shall inform the Regional Entity of any changes to an existing JRO. The Regional Entity shall promptly notify NERC of each such revision.
9. Nothing in Section 507 shall preclude a member of a JRO, a related entity, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting requirements for the reliability standards applicable to the function(s) for which the member or other entity is registering. A JRO member or related entity that registers as responsible for any reliability standard or requirement/sub-requirement of a reliability standard shall inform the JRO of its registration.

**508. Provisions Relating to Coordinated Functional Registration (CFR) Entities**

1. In addition to registering as an entity responsible for all functions that it performs itself, multiple entities may each register using a CFR for one or more reliability standard(s) and/or for one or more requirements/sub-requirements within particular reliability standard(s) applicable to a specific function. The CFR submission must include a written agreement that governs itself and clearly specifies the entities' respective compliance responsibilities. The registration of

the CFR is the complete registration for each entity. Additionally, each entity shall take full compliance responsibility for those standards and/or requirements/sub-requirements it has registered for in the CFR. Neither NERC nor the Regional Entity shall be parties to any such agreement, nor shall NERC or the Regional Entity have responsibility for reviewing or approving any such agreement, other than to verify that the agreement provides for an allocation or assignment of responsibilities consistent with the CFR.

2. Each CFR or each individual entity within a CFR must identify a point of contact that is responsible for providing information and data, including submitting reports as needed by the Regional Entity related to the CFR registration.
3. The Regional Entity shall notify NERC of each CFR that the Regional Entity accepts.
4. NERC or the Regional Entity may request clarification of any list submitted to it that identifies the compliance responsibilities of the CFR and may request such additional information as NERC or the Regional Entity deems appropriate.
5. The Regional Entity's acceptance of that CFR shall be a representation by the Regional Entity to NERC that the Regional Entity has concluded the CFR will meet the registration requirements of Section 501(1.4).
6. NERC shall maintain, and post on its Web site, a CFR registry listing all CFR registrations that have been accepted by NERC or by a Regional Entity. The posting shall clearly list all the reliability standards or requirements/sub-requirements thereof for which each entity of the CFR is responsible for under the CFR.
7. The point of contact shall inform the Regional Entity of any changes to an existing CFR. The Regional Entity shall promptly notify NERC of each such revision.
8. In the event of a violation of a reliability standard or of a requirement/sub requirement of a reliability standard for which an entity of a CFR is registered, that entity shall be identified in the notice of alleged violation and shall be assessed the sanction or penalty in accordance with the NERC Sanctions Guidelines. In the event a Regional Entity is not able to determine which entity(ies) is responsible for a particular reliability standard, or requirements/sub requirements thereof that has been violated, the Regional Entity shall investigate the noncompliance in accordance with the NERC Rules of Procedure Section 400, *Compliance Enforcement*, to determine the entity(ies) to which the Regional Entity shall to issue the sanction or penalty for the violation.
9. Nothing in Section 508 shall preclude an entity registered in a CFR, or any other entity from registering on its own behalf and undertaking full compliance responsibility including reporting requirements for the reliability standards applicable to the function(s) for which the entity is registering. An entity

registered in a CFR that registers as responsible for any reliability standard or requirement/sub requirement of a reliability standard shall inform the point of contact of its registration.

## SECTION 600 — PERSONNEL CERTIFICATION

### 601. Scope of Personnel Certification

Maintaining the reliability of the bulk electric system through implementation of the reliability standards requires skilled, trained and qualified system operators. The System Operator Certification Program provides the mechanism to ensure system operators are provided the education and training necessary to obtain the essential knowledge and skills and are therefore qualified to operate the bulk electric system. NERC, as the ERO, will ensure skilled, trained, and qualified system operators through the System Operator Certification Program.

NERC shall develop and maintain a personnel certification program to evaluate individuals and to issue credentials to individuals who demonstrate the required level of competence. A current version of such a program is the *System Operator Certification Program Manual*, which is incorporated into these rules as **Appendix 6**.

### 602. Structure of ERO Personnel Certification Program

1. The NERC personnel certification program shall be international in scope.
2. The personnel certification program shall have a governing body that (1) is able to independently exercise decision-making for all matters pertaining to certification, (2) includes individuals from the discipline being certified and whose composition addresses the needs of the users of the program (e.g., employers, regulators, etc.), and (3) has representation for each specialty or level within a discipline.
3. NERC shall maintain a nominating process for membership in the governing body. Nominations shall be open to all interested parties and self-nominations shall be accepted. The NERC Board of Trustees shall appoint members to the governing body from among those nominated. The members of the governing body shall serve at the pleasure of the board.
4. The personnel certification program governing body shall have control over the matters related to the personnel certification and recertification programs listed below, without being subject to approval by any other body.
  - 4.1 Policies and procedures, including eligibility requirements and application processing.
  - 4.2 Requirements for personnel certification, maintaining certification, and recertification.
  - 4.3 Examination content, development, and administration.
  - 4.4 Examination cut score.
  - 4.5 Grievance and disciplinary processes.

- 4.6 Governing body and subgroup(s)' meeting rules including agenda, frequency, and related procedures.
  - 4.7 Subgroup(s) appointments and work assignments.
  - 4.8 Publications about personnel certification and recertification.
  - 4.9 Setting fees for application, and all other services provided as a part of the personnel certification and recertification activities.
  - 4.10 Program funding, spending, and budget authority. Financial matters related to the operation of the program shall be segregated from other NERC activities.
5. The personnel certification program shall utilize written procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors.
  6. The personnel certification program shall be separate from the accreditation and education functions of NERC in related disciplines.
  7. No member of the personnel certification program governing body or staff member working with the personnel certification program governing body shall have or exercise any authority or responsibility for compliance matters related to reliability standards concerning personnel certification.

**603. Candidate Testing Mechanisms**

1. The personnel certification program shall utilize reliable testing mechanisms to evaluate individual competence in a manner that is objective, fair to all candidates, job-related, and based on the knowledge and skill needed to function in the discipline.
2. The personnel certification program shall implement a formal policy of periodic review of the testing mechanisms to ensure ongoing relevance of the mechanisms to knowledge and skill needed in the discipline.
3. The personnel certification program shall utilize policies and procedures to ensure that all test administration and development materials are secure and demonstrate that these policies and procedures are consistently implemented.
4. The personnel certification program shall establish pass/fail levels that protect the public with a method that is based on competence and generally accepted in the psychometric community as being fair and reasonable.
5. The personnel certification program shall conduct ongoing studies to substantiate the reliability and validity of the testing mechanisms.



6. The personnel certification program shall utilize policies and procedures that govern how long examination records are kept in their original format.
7. The personnel certification program shall demonstrate that different forms of the testing mechanisms assess equivalent content and that candidates are not penalized for taking forms of varying difficulty.

**604. Public Information About the Personnel Certification Program**

1. The personnel certification program shall provide for publishing and availability of general descriptive material on the procedures used in examination construction and validation; all eligibility requirements and determination; fees; and examination administration documents, including: reporting of results, recertification requirements, and disciplinary and grievance procedures.
2. The personnel certification program shall publish and make available a comprehensive summary or outline of the information, knowledge, or functions covered by the examination.
3. The personnel certification program shall publish and make available at least annually a summary of certification activities for the program, including at least the following information: number of examinations delivered, the number passed, the number failed, and the number certified.

**605. Responsibilities to Applicants for Certification or Recertification**

The personnel certification program:

1. Shall not discriminate among applicants as to age, gender, race, religion, national origin, disability, or marital status and shall include a statement of non-discrimination in announcements of the program.
2. Shall comply with all requirements of applicable federal and state/provincial laws with respect to all certification and recertification activities, and shall require compliance of all contractors and/or providers of services.
3. Shall make available to all applicants copies of formalized procedures for application for, and attainment of, personnel certification and recertification and shall uniformly follow and enforce such procedures for all applicants.
4. Shall implement a formal policy for the periodic review of eligibility criteria and application procedures to ensure that they are fair and equitable.
5. Shall provide competently proctored examination sites.
6. Shall uniformly report examination results to applicants in a timely manner.
7. Shall give applicants failing the examination information on general content areas of deficiency.

8. Shall implement policies and procedures providing due process for applicants questioning eligibility determination, examination results, and certification status, and shall publish this information. A current version of such a procedure is the *NERC System Operator Certification Dispute Resolution Process*, which is incorporated into these rules as part of **Appendix 6**.
9. Shall develop and maintain a program manual containing the processes and procedures for applicants for certification and recertification.

**606. Responsibilities to the Public and to Employers of Certified Practitioners**

The personnel certification program:

1. Shall demonstrate that the testing mechanisms adequately measure the knowledge and skill required for entry, maintenance, and/or advancement in the profession for each position to be certified.
2. Shall award certification and recertification only after the skill and knowledge of the individual have been evaluated and determined to be acceptable.
3. Shall periodically publish or maintain, in an electronic format, a current list of those persons certified in the programs and have policies and procedures that delineate what information about a credential holder may be made public and under what circumstances.
4. Shall have formal policies and procedures for discipline of a credential holder, including the revocation of the certificate, for conduct deemed harmful to the public or inappropriate to the discipline (e.g., incompetence, unethical behavior, physical or mental impairment affecting performance). These procedures shall incorporate due process. The current procedure is the *NERC Certified System Operator Credential Disciplinary Action Procedure*, which is incorporated into these rules as part of **Appendix 6**.
5. Shall demonstrate that any title or credential awarded accurately reflects or applies to the practitioner's daily occupational or professional duties and is not confusing to employers, consumers, regulators, related professions, and/or other interested parties.

## SECTION 700 — RELIABILITY READINESS EVALUATION AND IMPROVEMENT AND FORMATION OF SECTOR FORUMS

### 701 Confidentiality Requirements for Readiness Evaluations and Evaluation Team Members

1. All information made available or created during the course of any reliability readiness evaluation including, but not limited to, data, documents, observations and notes, shall be maintained as confidential by all evaluation team members, in accordance with the requirements of Section 1500.
2. Evaluation team members are obligated to destroy all confidential evaluation notes following the posting of the final report of the reliability readiness evaluation.
3. NERC will retain reliability readiness evaluation-related documentation, notes, and materials for a period of time as defined by NERC.
4. These confidentiality requirements shall survive the termination of the NERC Reliability Readiness Evaluation and Improvement Program.

### 702. Formation of Sector Forum

1. NERC will form a sector forum at the request of any five members of NERC that share a common interest in the safety and reliability of the bulk power system. The members of sector forum may invite such others of the members of NERC to join the sector forum as the sector forum deems appropriate.
2. The request to form a sector forum must include a proposed charter for the sector forum. The board must approve the charter.
3. NERC will provide notification of the formation of a sector forum to its membership roster. Notices and agendas of meetings shall be posted on NERC's Web site.
4. A sector forum may make recommendations to any of the NERC committees and may submit a standards authorization request to the NERC *Reliability Standards Development Procedure*.

## **SECTION 800 — RELIABILITY ASSESSMENT AND PERFORMANCE ANALYSIS**

### **801. Objectives of the Reliability Assessment and Performance Analysis Program**

The objectives of the NERC reliability assessment and performance analysis program are to: (1) conduct, and report the results of, an independent assessment of the overall reliability and adequacy of the interconnected North American bulk power systems, both as existing and as planned; (2) analyze off-normal events on the bulk power system; (3) identify the root causes of events that may be precursors of potentially more serious events; (4) assess past reliability performance for lessons learned; (5) disseminate findings and lessons learned to the electric industry to improve reliability performance; and (6) develop reliability performance benchmarks. The final reliability assessment reports shall be approved by the board for publication to the electric industry and the general public.

### **802. Scope of the Reliability Assessment Program**

1. The scope of the reliability assessment program shall include:
  - 1.1 Review, assess, and report on the overall electric generation and transmission reliability (adequacy and operating reliability) of the interconnected bulk power systems, both existing and as planned.
  - 1.2 Assess and report on the key issues, risks, and uncertainties that affect or have the potential to affect the reliability of existing and future electric supply and transmission.
  - 1.3 Review, analyze, and report on regional self-assessments of electric supply and bulk power transmission reliability, including reliability issues of specific regional concern.
  - 1.4 Identify, analyze, and project trends in electric customer demand, supply, and transmission and their impacts on bulk power system reliability.
  - 1.5 Investigate, assess, and report on the potential impacts of new and evolving electricity market practices, new or proposed regulatory procedures, and new or proposed legislation (e.g. environmental requirements) on the adequacy and operating reliability of the bulk power systems.
2. The reliability assessment program shall be performed in a manner consistent with the reliability standards of NERC including but not limited to those that specify reliability assessment requirements.

### **803. Reliability Assessment Reports**

The number and type of periodic assessments that are to be conducted shall be at the discretion of NERC. The results of the reliability assessments shall be documented in three reports: the long-term and the annual seasonal (summer) and the annual seasonal (winter) assessment reports. NERC shall also conduct special reliability assessments from time to time as circumstances warrant. The reliability assessment reports shall be reviewed and approved for publication by the board. The three regular reports are described below.

1. **Long-Term Reliability Assessment Report** — The annual long-term report shall cover a ten-year planning horizon. The planning horizon of the long-term reliability assessment report shall be subject to change at the discretion of NERC. Detailed generation and transmission adequacy assessments shall be conducted for the first five years of the review period. For the second five years of the review period, the assessment shall focus on the identification, analysis, and projection of trends in peak demand, electric supply, and transmission adequacy, as well as other industry trends and developments that may impact future electric system reliability. Reliability issues of concern and their potential impacts shall be presented along with any mitigation plans or alternatives. The long-term reliability assessment reports will generally be published in the fall (September) of each year. NERC will also publish electricity supply and demand data associated with the long-term reliability assessment report.
2. **Summer Assessment Report** — The annual summer seasonal assessment report typically shall cover the four-month (June–September) summer period. It shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected summer peak demands. It shall also identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may include possible mitigation alternatives. The report will generally be published in mid-May for the upcoming summer period.
3. **Winter Assessment Report** — The annual winter seasonal assessment report shall cover the three-month (December–February) winter period. The report shall provide an overall perspective on the adequacy of the generation resources and the transmission systems necessary to meet projected winter peak demands. Similar to the summer assessment, the winter assessment shall identify reliability issues of interest and regional and subregional areas of concern in meeting projected customer demands and may also include possible mitigation alternatives. The winter assessment report will generally be published in mid-November for the upcoming winter period.
4. **Special Reliability Assessment Reports** — In addition to the long-term and seasonal reliability assessment reports, NERC shall also conduct special reliability assessments on a regional, interregional, and interconnection basis as conditions warrant, or as requested by the board or applicable governmental authorities. The teams of reliability and technical experts also may initiate special assessments of

key reliability issues and their impacts on the reliability of a regions, subregions, or interconnection (or a portion thereof). Such special reliability assessments may include, among other things, operational reliability assessments, evaluations of emergency response preparedness, adequacy of fuel supply, hydro conditions, reliability impacts of new or proposed environmental rules and regulations, and reliability impacts of new or proposed legislation that affects or has the potential to affect the reliability of the interconnected bulk power systems in North America.

#### **804. Reliability Assessment Data and Information Requirements**

To carry out the reviews and assessments of the overall reliability of the interconnected bulk power systems, the regional entities and other entities shall provide sufficient data and other information requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments.

Some of the data provided for these reviews and assessment may be considered confidential from a competitive marketing perspective, a critical energy infrastructure information perspective, or for other purposes. Such data shall be treated in accordance with the provisions of Section 1500 – Confidential Information.

While the major sources of data and information for this program are the regional entities, a team of reliability and technical experts is responsible for developing and formulating its own independent conclusions about the near-term and long-term reliability of the bulk power systems.

In connection with the reliability assessment reports, requests shall be submitted to each of the regional entities for required reliability assessment data and other information, and for each region’s self-assessment report. The timing of the requests will be governed by the schedule for the preparation of the assessment reports.

The regional self-assessments are to be conducted in compliance with NERC standards and the respective regional planning criteria. The team(s) of reliability and technical experts shall also conduct interviews with the regional entities as needed. The summary of the regional self-assessments that are to be included in the assessment reports shall follow the general outline identified in NERC’s request. This outline may change from time to time as key reliability issues change.

In general, the regional reliability self-assessments shall address, among other areas, the following topics: demand and net energy for load; assessment of projected resource adequacy; any transmission constraints that may impact bulk transmission adequacy and plans to alleviate those constraints; any unusual operating conditions that could impact reliability for the assessment period; fuel supply adequacy; the deliverability of generation (both internal and external) to load; and any other reliability issues in the region and their potential impacts on the reliability of the bulk power systems.

### **805. Reliability Assessment Process**

Based on their expertise, the review of the collected data, the review of the regional self-assessment reports, and interviews with the regional entities, as appropriate, the teams of reliability and technical experts shall perform an independent review and assessment of the generation and transmission adequacy of each region's existing and planned bulk power system. The results of the review teams shall form the basis of NERC's long-term and seasonal reliability assessment reports. The review and assessment process is briefly summarized below.

1. **Resource Adequacy Assessment** — The teams shall evaluate the regional demand and resource capacity data for completeness in the context of the overall resource capacity needs of the region. The team shall independently evaluate the ability of the regional entity members to serve their obligations given the demand growth projections, the amount of existing and planned capacity, including committed and uncommitted capacity, contracted capacity, or capacity outside of the region. If the region relies on capacity from outside of the region to meet its resource objectives, the ability to deliver that capacity shall be factored into the assessment. The demand and resource capacity information shall be compared to the resource adequacy requirements of the regional entity for the year(s) or season(s) being assessed. The assessment shall determine if the resource information submitted represents a reasonable and attainable plan for the regional entity and its members. For cases of inadequate capacity or reserve margin, the regional entity will be requested to analyze and explain any resource capacity inadequacies and its plans to mitigate the reliability impact of the potential inadequacies. The analysis may be expanded to include surrounding areas. If the expanded analysis indicates further inadequacies, then an interregional problem may exist and will be explored with the applicable regions. The results of these analyses shall be described in the assessment report.
2. **Transmission Adequacy and Operating Reliability Assessment** — The teams shall evaluate transmission system information that relates to the adequacy and operating reliability of the regional transmission system. That information shall include: regional planning study reports, interregional planning study reports, and/or regional operational study reports. If additional information is required, another data request shall be sent to the regional entity. The assessment shall provide a judgment on the ability of the regional transmission system to operate reliably under the expected range of operating conditions over the assessment period as required by NERC reliability standards. If sub-areas of the regional system are especially critical to the reliable operation of the regional bulk transmission system, these facilities or sub-areas shall be reviewed and addressed in the assessment. Any areas of concern related to the adequacy or operating reliability of the system shall be identified and reported in the assessment.
3. **Seasonal Operating Reliability Assessment** — The team(s) shall evaluate the overall operating reliability of the regional bulk transmission systems. In areas with potential resource adequacy or system operating reliability problems, operational readiness of the affected regional entities for the upcoming season

shall be reviewed and analyzed. The assessment may consider unusual but possible operating scenarios and how the system is expected to perform. Operating reliability shall take into account a wide range of activities, all of which should reinforce the regional entity's ability to deal with the situations that might occur during the upcoming season. Typical activities in the assessment may include: facility modifications and additions, new or modified operating procedures, emergency procedures enhancement, and planning and operating studies. The teams shall report the overall seasonal operating reliability of the regional transmission systems in the annual summer and winter assessment reports.

4. **Reporting of Reliability Assessment Results** — The teams of reliability and technical experts shall provide an independent assessment of the reliability of the regional entities and the North American interconnected bulk power system for the period of the assessment. While the regional entities are relied upon to provide the information to perform such assessments, the review team is not required to accept the conclusions provided by the regional entities. Instead, the review team is expected, based on their expertise, to reach their own independent conclusions about the status of the adequacy of the generation and bulk power transmission systems of North America.

The review team also shall strive to achieve consensus in their assessments. The assessments that are made are based on the best information available at the time. However, since judgment is applied to this information, legitimate differences of opinion can develop. Despite these differences, the review team shall work to achieve consensus on their findings.

In addition to providing long-term and seasonal assessments in connection with the reliability assessment program, the review team of experts shall also be responsible for recommending new and revised reliability standards related to the reliability assessments and the reliability of the bulk power systems. These proposals for new or revised standards shall be entered into NERC's Standards Development Process.

Upon completion of the assessment, the team shall share the results with the regional entities. The regional entities shall be given the opportunity to review and comment on the conclusions in the assessment and to provide additional information as appropriate. The reliability assessments and their conclusions are the responsibility of NERC's technical review team and NERC.

The preparation and approval of NERC's reliability assessment reports shall follow a prescribed schedule including review, comment, and possible approval by appropriate NERC committees. The long-term and seasonal (summer and winter) reliability assessment reports shall be further reviewed for approval by the board for publication to the electric industry.



**806. Scope of the Reliability Performance and Analysis Program**

The components of the program will include analysis of large-scale outages, disturbances, and near misses to determine root causes and lessons learned; identification and continuous monitoring of performance indices to detect emerging trends and signs of a decline in reliability performance; and communications of performance results, trends, recommendations, and initiatives to those responsible to take actions; followed with confirmation of actions to correct any deficiencies identified. Within NERC, the reliability performance program will provide performance results to the standards development and compliance enforcement programs to make the necessary adjustments to preserve reliability based on a risk-based approach.

**807. Analysis of Major Events**

Responding to major blackouts and other system disturbances or emergencies can be divided into four phases: situational assessment and communications; situation tracking and communications; data collection, investigation, analysis, and reporting; and follow-up on recommendations.

- a. NERC's role following a blackout or other major bulk power system disturbance or emergency is to provide leadership, coordination, technical expertise, and assistance to the industry in responding to the event. Working closely with the regional entities and reliability coordinators, NERC will coordinate and facilitate efforts among industry participants, and with state, federal, and provincial governments in the United States and Canada to support the industry's response.
- b. When responding to any event where physical or cyber security is suspected as a cause or contributing factor to an event, NERC will immediately notify appropriate government agencies and coordinate its activities with them.
- c. Each user, owner, and operator of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.
- d. During the conduct of some NERC analyses, assistance may be needed from government agencies. This assistance could include: authority to require data reporting from affected or involved parties; communications with other agencies of government; investigations related to possible criminal or terrorist involvement in the event; resources for initial data gathering immediately after the event; authority to call meetings of affected or involved parties; and technical and analytical resources for studies.
- e. NERC shall work with other participants to establish a clear delineation of roles, responsibilities, and coordination requirements among industry and government for the investigation and reporting of findings, conclusions, and recommendations related to major blackouts, disturbances, or other emergencies affecting the bulk power system with the objective of avoiding, to the extent possible, multiple investigations of the same event. If the event is confined to a single regional

entity, NERC representatives will participate as members of the regional entity analysis team.

- f. NERC and applicable entity(s) shall apply the NERC *Blackout and Disturbance Response Procedures*, which are incorporated into these rules as **Appendix 8**. These procedures provide a framework to guide NERC's response to events that may have multiregional, national, or international implications. Experienced industry leadership shall be applied to tailor the response to the specific circumstances of the event. In accordance with that procedure, the NERC president will determine whether the event warrants analysis at the NERC-level. A regional entity may request that NERC elevate any analysis to a NERC level.
- g. NERC will screen and analyze the findings and recommendations from the analysis, and those with generic applicability will be disseminated to the industry in accordance with section 810.

**808. Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance**

- 1. NERC and regional entities shall analyze system and equipment performance events that do not rise to the level of a major blackout, disturbance, or system emergency, as described in section 807. NERC and regional entities shall also analyze potential vulnerabilities in the bulk power system brought to their attention by government agencies. The purpose of these analyses is to identify the root causes of events that may be precursors of potentially more serious events or that have the potential to cause more serious events, to assess past reliability performance for lessons learned, and to develop reliability performance benchmarks and trends.
- 2. NERC and regional entities will screen and analyze events and potential vulnerabilities for significance, and information from those with generic applicability will be disseminated to the industry in accordance with section 810.
- 3. Each user, owner, and operator, of the bulk power system shall provide NERC and the applicable regional entities with such information as is necessary to enable NERC and the applicable regional entities to carry out their responsibilities under this section.

**809. Reliability Benchmarking**

NERC shall identify and track key reliability indicators as a means of benchmarking reliability performance and measuring reliability improvements. This program will include assessing available metrics, developing guidelines for acceptable metrics, maintaining a performance metrics “dashboard” on the NERC Web site, and developing appropriate reliability performance benchmarks.

**810. Information Exchange and Issuance of NERC Advisories, Recommendations and Essential Actions**

1. Members of NERC and bulk power system owners, operators, and users shall provide NERC with detailed and timely operating experience information and data.
2. In the normal course of operations, NERC disseminates the results of its events analysis findings, lessons learned and other analysis and information gathering to the industry. These findings, lessons learned and other information will be used to guide the reliability assessment program.
3. When NERC determines it is necessary to place the industry or segments of the industry on formal notice of its findings, analyses, and recommendations, NERC will provide such notification in the form of specific operations or equipment Advisories, Recommendations or Essential Actions:
  - 3.1 Level 1 (Advisories) – purely informational, intended to advise certain segments of the owners, operators and users of the bulk power system of findings and lessons learned;
  - 3.2 Level 2 (Recommendations) – specific actions that NERC is recommending be considered on a particular topic by certain segments of owners, operators, and users of the bulk power system according to each entity’s facts and circumstances;
  - 3.3 Level 3 (Essential Actions) – specific actions that NERC has determined are essential for certain segments of owners, operators, or users of the bulk power system to take to ensure the reliability of the bulk power system. Such Essential Actions require NERC board approval before issuance.
4. The bulk power system owners, operators, and users to which Level 2 (Recommendations) and Level 3 (Essential Actions) notifications apply are to evaluate and take appropriate action on such issuances by NERC. Such bulk power system owners, operators, and users shall also provide reports of actions taken and timely updates on progress towards resolving the issues raised in the Recommendations and Essential Actions in accordance with the reporting date(s) specified by NERC.
5. NERC will advise the Commission and other applicable governmental authorities of its intent to issue all Level 1 Advisories, Level 2 Recommendations, and Level 3 Essential Actions at least five (5) business days prior to issuance, unless extraordinary circumstances exist that warrant issuance less than five (5) business days after such advice. NERC will file a report with the Commission and other applicable governmental authorities no later than thirty (30) days following the date by which NERC has requested the bulk power system owners, operators, and users to which a Level 2 Recommendation or Level 3 Essential Action issuance applies to provide reports of actions taken in response to the notification.

NERC's report to the Commission and other applicable governmental authorities will describe the actions taken by the relevant owners, operators, and users of the bulk power system and the success of such actions taken in correcting any vulnerability or deficiency that was the subject of the notification, with appropriate protection for confidential or critical infrastructure information.

**811. Equipment Performance Data**

Through its Generating Availability Data System (GADS), NERC shall collect operating information about the performance of electric generating equipment; provide assistance to those researching information on power plant outages stored in its database; and support equipment reliability as well as availability analyses and other decision-making processes developed by GADS subscribers. GADS data is also used in conducting assessments of generation resource adequacy.

## **SECTION 900 — TRAINING AND EDUCATION**

### **901. Scope of the Training and Education Program**

Maintaining the reliability of the bulk electric system through implementation of the Reliability Standards requires informed and trained personnel. The training and education program will provide the education and training necessary for bulk power system personnel and regulators to obtain the essential knowledge necessary to understand and operate the bulk electric system.

NERC shall develop and maintain training and education programs for the purpose of establishing training requirements, developing materials, and developing training activities. The target audience of the training and education programs shall be bulk power system operating personnel including system operations personnel, operations support personnel (engineering and information technology), supervisors and managers, training personnel, and other personnel directly responsible for complying with NERC reliability standards who, through their actions or inactions, may impact the real-time, or day-ahead reliability of the bulk power system.

NERC shall also develop and provide appropriate training and education for industry participants and regulators affected by new or changed reliability standards or compliance requirements.

To accomplish those objectives:

1. NERC shall periodically conduct job task analyses for targeted bulk power system personnel to ensure that the training program content is properly aligned to the job tasks performed by those personnel.
2. NERC shall develop and maintain personnel training program curriculum requirements based on valid job-task analysis.
3. NERC shall periodically conduct performance surveys to determine the effectiveness of the training program and identify areas for further training development and improvement.
4. NERC shall develop training and education materials and activities to assist bulk power system entities implementing new or revised reliability standard requirements or other NERC-related changes.
5. NERC shall develop and provide training to people who participate in NERC and regional entity evaluations, audits, and investigations for the compliance enforcement program, organization certification program, and the continuing education program.

### **902. Continuing Education Program**

NERC shall develop and maintain a continuing education program to foster the improvement of training and to promote quality in the training programs used by and

implemented by bulk power system entities. The program shall approve or accredit those activities and entities meeting NERC continuing education requirements.

1. NERC shall develop and implement continuing education program requirements that promote excellence in training programs and advance improved performance for bulk system personnel identified in Section 901.
2. NERC shall develop and maintain a process to approve or accredit continuing education providers and activities seeking approval or accreditation and meeting NERC-approved continuing education requirements.
3. NERC shall perform periodic audits on continuing education providers and training activities to ensure that the approved or accredited providers and training activities satisfy NERC continuing education requirements.
4. NERC shall develop and maintain an appeals process for disputed application reviews, interpretations of guidelines and standards, probation or suspension of NERC-approved provider status, or continuing education hour disputes.

## **SECTION 1000 — SITUATION AWARENESS AND INFRASTRUCTURE SECURITY**

### **1001. Situation Awareness**

NERC shall through the use of reliability coordinators and available tools, monitor present conditions on the bulk power system and provide leadership coordination, technical expertise, and assistance to the industry in responding to events as necessary. To accomplish these goals, NERC will:

1. Maintain real-time situation awareness of conditions on the bulk power system;
2. Notify the industry of significant bulk power system events that have occurred in one area, and which have the potential to impact reliability in other areas;
3. Maintain and strengthen high-level communication, coordination, and cooperation with governments and government agencies regarding real-time conditions; and
4. Enable the reliable operation of interconnected bulk power systems by facilitating information exchange and coordination among reliability service organizations.

### **1002. Reliability Support Services**

NERC will provide tools and other support services for the benefit of reliability coordinators and other system operators, including the Area Control Error (ACE) and Frequency Monitoring System, NERC Hotline, Real-time Flows, System Data Exchange (SDX), Reliability Coordinator Information System (RCIS), Transmission Services Information Network (TSIN), Interchange Distribution Calculator (IDC), Interregional Security Network (ISN), and Central Repository for Security Events (CRC). To accomplish this goal, NERC will:

1. Maintain the reliability and effectiveness of all mission-critical operating reliability support systems and services;
2. Continue to support maintenance of a transmission provider curtailment report on the CRC site in response to Federal Energy Regulatory Commission Order 605;
3. Investigate and analyze the use of high-speed real-time system measurements, including phasors, in predicting the behavior and performance of the Eastern Interconnection; and
4. Facilitate real-time voice and data exchange services among reliability coordinators (e.g., Hotline, Interregional Security Network, NERCnet, System Data Exchange, etc.).

### **1003. Infrastructure Security Program**

NERC shall coordinate electric industry activities to promote critical infrastructure protection of the bulk power system in North America by taking a leadership role in critical infrastructure protection of the electricity sector so as to reduce vulnerability and

improve mitigation and protection of the electricity sector's critical infrastructure. To accomplish these goals, NERC shall perform the following functions.

1. Electric Sector Information Sharing and Analysis Center (ESISAC)
  - 1.1 NERC shall serve as the electricity sector's Sector Coordinator and operate its Information Sharing and Analysis Center to gather information and communicate security-related threats and incidents within the sector, with United States and Canadian government agencies, and with other critical infrastructure sectors.
  - 1.2 NERC shall improve the capability of the ESISAC to analyze security threats and incident information and provide situational assessments for the electricity sector and governments.
  - 1.3 NERC shall work closely with the United States Department of Homeland Security, Department of Energy, Natural Resources Canada, and Public Safety and Emergency Preparedness Canada.
  - 1.4 NERC shall strengthen and expand these functions and working relationships with the electricity sector, other critical infrastructure industries, governments, and government agencies throughout North America to ensure the protection of the infrastructure of the bulk power system.
  - 1.5 NERC shall fill the role of the Electricity Sector Coordinating Council and coordinate with the Government Coordinating Council.
  - 1.6 NERC shall coordinate with other critical infrastructure sectors through active participation with the other Sector Coordinating Councils, the other ISACs, and the National Infrastructure Advisory Committee.
  - 1.7 NERC shall encourage and participate in coordinated critical infrastructure protection exercises, including interdependencies with other critical infrastructure sectors.
2. Security Planning
  - 2.1 NERC shall take a risk management approach to critical infrastructure protection, considering probability and severity, and recognizing that mitigation and recovery can be practical alternatives to prevention.
  - 2.2 NERC shall keep abreast of the changing threat environment through collaboration with government agencies.
  - 2.3 NERC shall develop criteria to identify critical physical and cyber assets, assess security threats, identify risk assessment methodologies, and assess effectiveness of physical and cyber protection measures.



- 2.4 NERC shall enhance and maintain the bulk power system critical spare transformer program, encourage increased participation by asset owners, and continue to assess the need to expand this program to include other critical bulk power system equipment.
- 2.5 NERC shall support implementation of the Cyber Security Standards through education and outreach.
- 2.6 NERC shall review and improve existing Security Guidelines, develop new Security Guidelines to meet the needs of the electricity sector, and consider whether any guidelines should be developed into standards.
- 2.7 NERC shall conduct education and outreach initiatives to increase awareness and respond to the needs of the electricity sector.
- 2.8 NERC shall strengthen relationships with federal, state, and provincial government agencies on critical infrastructure protection matters.
- 2.9 NERC shall maintain and improve mechanisms for the sharing of sensitive or classified information with federal, state, and provincial government agencies on critical infrastructure protection matters; work with DOE and DHS to implement the National Infrastructure Protection Plan, as applicable to the electricity sector; and coordinate this work with PSEPC.
- 2.10 NERC shall improve methods to better assess the impact of a possible physical attack on the bulk power system and means to deter, mitigate, and respond following an attack.
- 2.11 NERC shall assess the results of vulnerability assessments and enhance the security of System Control and Data Acquisition (SCADA) and process control systems by developing methods to detect an emerging cyber attack and the means to mitigate impacts on the bulk power systems.
- 2.12 NERC shall work with the National SCADA Test Bed and the Process Control Systems Forum to accelerate the development of technology that will enhance the security, safety, and reliability of process control and SCADA systems.

## **SECTION 1100 — ANNUAL NERC BUSINESS PLANS AND BUDGETS**

### **1101. Scope of Business Plans and Budgets**

The board shall determine the content of the budgets to be submitted to the applicable ERO governmental authorities with consultation from the members of the Members Representatives Committee, regional entities, and others in accordance with the bylaws. The board shall identify any activities outside the scope of NERC's statutory reliability functions, if any, and the appropriate funding mechanisms for those activities.

### **1102. NERC Funding and Cost Allocation**

1. In order that NERC's costs shall be fairly allocated among interconnections and among regional entities, the NERC funding mechanism for all statutory functions shall be based on net energy for load (NEL).
2. NERC's costs shall be allocated so that all load (or, in the case of costs for an interconnection or regional entity, all load within that interconnection or regional entity) bears an equitable share of such costs based on NEL.
3. Costs shall be equitably allocated between countries or regional entities thereof for which NERC has been designated or recognized as the electric reliability authority.
4. Costs incurred to accomplish the statutory functions for one interconnection, regional entity, or group of entities will be directly assigned to that interconnection, regional entity, or group of entities provided that such costs are allocated equitably to end-users based on net energy for load.

### **1103. NERC Budget Development**

1. The NERC annual budget process shall be scheduled and conducted for each calendar year so as to allow a sufficient amount of time for NERC to receive member inputs, develop the budget, and receive board and, where authorized by applicable legislation or agreement, ERO governmental authority approval of the NERC budget for the following fiscal year, including timely submission of the proposed budget to FERC for approval in accordance with FERC regulations.
2. The NERC budget submittal to ERO governmental authorities shall include provisions for all ERO functions, all regional entity delegated functions as specified in delegation agreements and reasonable reserves and contingencies.
3. The NERC annual budget submittal to ERO governmental authorities shall include description and explanation of NERC's proposed ERO program activities for the year; budget component justification based on statutory or other authorities; explanation of how each budgeted activity lends itself to the accomplishment of the statutory or other authorities; sufficiency of resources

provided for in the budget to carry out the ERO program responsibilities; explanation of the calculations and budget estimates; identification and explanation of changes in budget components from the previous year's budget; information on staffing and organization charts; and such other information as is required by FERC and other ERO governmental authorities having authority to approve the proposed budget.

4. NERC shall develop, in consultation with the regional entities, a reasonable and consistent system of accounts, to allow a meaningful comparison of actual results at the NERC and regional entity level by the applicable ERO governmental authorities.

#### **1104. Submittal of Regional Entity Budgets to NERC**

1. Each regional entity shall submit its proposed annual budget for carrying out its delegated authority functions as well as all other activities and funding to NERC in accordance with a schedule developed by NERC and the regional entities, which shall provide for the regional entity to submit its final budget that has been approved by its board of directors or other governing body no later than July 1 of the prior year, in order to provide sufficient time for NERC's review and comment on the proposed budget and approval of the regional entity budget by the NERC Board of Trustees in time for the NERC and regional budgets to be submitted to FERC and other ERO governmental authorities for approval in accordance with their regulations. The regional entity's budget shall include supporting materials in accordance with the budget and reporting format developed by NERC and the regional entities, including the regional entity's complete business plan and organization chart, explaining the proposed collection of all dues, fees, and charges and the proposed expenditure of funds collected in sufficient detail to justify the requested funding collection and budget expenditures.
2. NERC shall review and approve each regional entity's budget for meeting the requirements of its delegated authority. Concurrent with approving the NERC budget, NERC shall review and approve, or reject, each regional entity budget for filing.
3. NERC shall also have the right to review from time to time, in reasonable intervals but no less frequently than every three years, the financial books and records of each regional entity having delegated authority in order to ensure that the documentation fairly represents in all material respects appropriate funding of delegated functions.

#### **1105. Submittal of NERC and Regional Entity Budgets to Governmental Authorities for Approval**

1. NERC shall file for approval by the applicable ERO governmental authorities at least 130 days in advance of the start of each fiscal year. The filing shall include: (1) the complete NERC and regional entity budgets including the business plans and organizational charts approved by the board, (2) NERC's annual funding requirement (including regional entity costs for delegated functions), and (3) the

mechanism for assessing charges to recover that annual funding requirement, together with supporting materials in sufficient detail to support the requested funding requirement.

2. NERC shall seek approval from each governmental authority requiring such approval for the funding requirements necessary to perform ERO activities within their jurisdictions.

**1106. NERC and Regional Entity Billing and Collections**

1. NERC shall request the regional entities to identify all load-serving entities<sup>3</sup> within each regional entity and the NEL assigned to each load-serving entity, and the regional entities shall supply the requested information. The assignment of a funding requirement to an entity shall not be the basis for determining that the entity must be registered in the compliance registry.
2. NERC shall accumulate the NEL by load-serving entities for each ERO governmental authority and submit the proportional share of NERC funding requirements to each ERO governmental authority for approval together with supporting materials in sufficient detail to support the requested funding requirement.
3. NEL reported by balancing authorities within a region shall be used to rationalize and validate amounts allocated for collection through regional entity processes.
4. The billing and collection processes shall provide:
  - 4.1 A clear validation of billing and application of payments.
  - 4.2 A minimum of data requests to those being billed.
  - 4.3 Adequate controls to ensure integrity in the billing determinants including identification of entities responsible for funding NERC's activities.
  - 4.4 Consistent billing and collection terms.
5. NERC will bill and collect all budget requirements approved by applicable ERO governmental authorities (including the funds required to support those functions assigned to the regional entities through the delegation agreements) directly from the load-serving entities or their designees or as directed by particular ERO governmental authorities, except where the regional entity is required to collect the budget requirements for NERC, in which case the regional entity will collect directly from the load-serving entities or as otherwise provided by agreement and

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<sup>3</sup> A regional entity may allocate funding obligations using an alternative method approved by NERC and by FERC and other appropriate ERO governmental authorities, as provided for in the regional delegation agreement.

submit funds to NERC. Alternatively, a load-serving entity may pay its allocated ERO costs through a regional entity managed collection mechanism.

6. NERC shall set a minimum threshold limit on the billing of small LSEs to minimize the administrative burden of collection.
7. NERC shall pursue any non-payments and shall request assistance from applicable governmental authorities as necessary to secure collection.
8. In the case where a Regional Entity performs the collection for ERO, the Regional Entity will not be responsible for non-payment in the event that a user, owner or operator of the Bulk Power System does not pay its share of dues, fees and charges in a timely manner, provided that such a Regional Entity shall use reasonably diligent efforts to collect dues, fees, and other charges from all entities obligated to pay them. However, any revenues not paid shall be recovered from others within the same region to avoid cross-subsidization between regions.
9. Both NERC and the regional entities also may bill members or others for functions and services not within statutory requirements or otherwise authorized by the appropriate governmental authorities. Costs and revenues associated with these functions and services shall be separately identified and not commingled with billings associated with the funding of NERC or of the regional entities for delegated activities.

#### **1107. Penalty Applications**

1. Where NERC or a regional entity initiates a compliance monitoring and enforcement process that leads to imposition of a penalty, the entity that initiated the process shall receive any penalty monies imposed and collected as a result of that process, unless a different disposition of the penalty monies is provided for in the delegation agreement, or in a contract or a disposition of the violation that is approved by NERC and FERC.
2. All funds from financial penalties assessed in the United States received by the entity initiating the compliance monitoring and enforcement process shall be applied as a general offset to the entity's budget requirements for the subsequent fiscal year, if received by July 1, or for the second subsequent fiscal year, if received on or after July 1. Funds from financial penalties shall not be directly applied to any program maintained by the entity conducting the compliance monitoring and enforcement process. Funds from financial penalties assessed against a Canadian entity shall be applied as specified by legislation or agreement.
3. In the event that a compliance monitoring and enforcement process is conducted jointly by NERC and a regional entity, the regional entity shall receive the penalty monies and offset the entity's budget requirements for the subsequent fiscal year.
4. Exceptions or alternatives to the foregoing provisions will be allowed if approved by NERC and by FERC any other applicable ERO governmental authority.

**1108. Special Assessments**

On a demonstration of unforeseen and extraordinary circumstances requiring additional funds prior to the next funding cycle, NERC shall file with the applicable ERO governmental authorities, where authorized by applicable legislation or agreement, for authorization for an amended or supplemental budget for NERC or a regional entity and, if necessary under the amended or supplemental budget, to collect a special or additional assessment for statutory functions of NERC or the regional entity. Such filing shall include supporting materials to justify the requested funding, including any departure from the approved funding formula or method.

## **SECTION 1200 — REGIONAL DELEGATION AGREEMENTS**

### **1201. Pro Forma Regional Delegation Agreement**

NERC shall develop and maintain a pro forma regional entity delegation agreement, which shall serve as the basis for negotiation of consistent agreements for the delegation of ERO functions to regional entities.

### **1202. Regional Entity Essential Requirements**

NERC shall establish the essential requirements for an entity to become qualified and maintain good standing as a regional entity.

### **1203. Negotiation of Regional Delegation Agreements**

NERC shall, for all areas of North America that have provided NERC with the appropriate authority, negotiate regional delegation agreements for the purpose of ensuring all areas of the North American bulk power systems are within a regional entity area. In the event NERC is unable to reach agreement with regional entities for all areas, NERC shall provide alternative means and resources for implementing NERC functions within those areas. No delegation agreement shall take effect until it has been approved by the appropriate ERO governmental authority.

### **1204. Conformance to Rules and Terms of Regional Delegation Agreements**

NERC and each regional entity shall comply with all applicable ERO rules of procedure and the obligations stated in the regional delegation agreement.

### **1205. Sub-delegation**

The regional entity shall not sub-delegate any responsibilities and authorities delegated to it by its regional delegation agreement with NERC except with the approval of NERC and FERC and other appropriate ERO governmental authorities. Responsibilities and authorities may only be sub-delegated to another regional entity. Regional entities may share resources with one another so long as such arrangements do not result in cross-subsidization or in any sub-delegation of authorities.

### **1206. Nonconformance to Rules or Terms of Regional Delegation Agreement**

If a regional entity is unable to comply or is not in compliance with an ERO rule of procedure or the terms of the regional delegation agreement, the regional entity shall immediately notify NERC in writing, describing the area of nonconformance and the reason for not being able to conform to the rule. NERC shall evaluate each case and inform the affected regional entity of the results of the evaluation. If NERC determines that a rule or term of the regional delegation agreement has been violated by an entity or cannot practically be implemented by an entity, NERC shall notify the applicable ERO governmental authorities and take any actions necessary to address the situation.

**1207. Regional Entity Audits**

Approximately every five years and more frequently if necessary for cause, NERC shall audit each regional entity to verify that the regional entity continues to comply with NERC rules of procedure and the obligations of NERC delegation agreement. Audits of regional entities shall be conducted, to the extent practical, based on professional auditing standards recognized in the U.S., including Generally Accepted Auditing Standards, Generally Accepted Government Auditing Standards, and standards sanctioned by the Institute of Internal Auditors, and if applicable to the coverage of the audit, may be based on Canadian or other international standards. The audits required by this section 1207 shall not duplicate the audits of regional entity compliance monitoring and enforcement programs provided for in **Appendix 4A**, Audit of Regional Compliance Programs, to these rules of procedure.

**1208. Process for Considering Registered Entity Requests to Transfer to Another Regional Entity Audits**

1. A registered entity that is registered in the region of one regional entity and believes its registration should be transferred to a different regional entity may submit a written request to both regional entities requesting that they process the proposed transfer in accordance with this section. The registered entity's written request shall set forth the reasons the registered entity believes justify the proposed transfer and shall describe any impacts of the proposed transfer on other bulk power system owners, operators, and users.
2. After receiving the registered entity's written request, the two regional entities shall consult with each other as to whether they agree or disagree that the requested transfer is appropriate. The regional entities may also consult with affected reliability coordinators, balancing authorities and transmission operators as appropriate. Each regional entity shall post the request on its web site for public comment period of 21 days. In evaluating the proposed transfer, the regional entities shall consider the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators; and users, the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments to other load-serving entities of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current regional entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity would be transitioned from the current regional entity to the transferee regional entity; along with any other reasons for the proposed transfer stated by the registered entity and any other reasons either regional entity considers relevant. The regional entities may request that the registered entity provide additional data and information concerning the proposed transfer for the regional entities' use in their evaluation. The registered entity's



current regional entity shall notify the registered entity in writing as to whether (i) the two regional entities agree that the requested transfer is appropriate, (ii) the two regional entities agree that the requested transfer is not appropriate and should not be processed further, or (iii) the two regional entities disagree as to whether the proposed transfer is appropriate.

3. If the two regional entities agree that the requested transfer is appropriate, they shall submit a joint written request to NERC requesting that the proposed transfer be approved and that the delegation agreement between NERC and each of the regional entities be amended accordingly. The regional entities' joint written submission to NERC shall describe the reasons for the proposed transfer; the location of the registered entity's bulk power system facilities in relation to the geographic and electrical boundaries of the respective regions; the impacts of the proposed transfer on other bulk power system owners, operators, and users; the impacts of the proposed transfer on the current and future staffing, resources, budgets and assessments of each regional entity, including the sufficiency of the proposed transferee regional entity's staffing and resources to perform compliance monitoring and enforcement activities with respect to the registered entity; the registered entity's compliance history with its current registered entity; and the manner in which pending compliance monitoring and enforcement matters concerning the registered entity will be transitioned from the current regional entity to the transferee regional entity. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision. If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.
4. If the two regional entities do not agree with each other that the proposed transfer is appropriate, the regional entity supporting the proposed transfer shall, if requested by the registered entity, submit a written request to NERC to approve the transfer and the related delegation agreement amendments. The regional entity's written request shall include the information specified in section 1208.3. The regional entity that does not believe the proposed transfer is appropriate will be allowed to submit a written statement to NERC explaining why the regional entity believes the transfer is not appropriate and should not be approved. The NERC Board of Trustees shall consider the proposed transfer based on the submissions of the regional entities and any other information the board considers relevant, and shall approve or disapprove the proposed transfer and the related delegation agreement amendments. The NERC board may request that the regional entities provide additional information, or obtain additional information from the registered entity, for the use of the NERC board in making its decision.

If the NERC board approves the proposed transfer, NERC shall file the related delegation agreements with FERC for approval.

5. Prior to action by the NERC Board of Trustees on a proposed transfer of registration under Section 1208.3 or 1208.4, NERC shall post information concerning the proposed transfer, including the submissions from the regional entities, on its Web site for at least twenty-one (21) days for the purpose of receiving public comment.
6. If the NERC Board of Trustees disapproves a proposed transfer presented to it pursuant to either section 1208.3 or 1208.4, the regional entity or entities that believe the transfer is appropriate may, if requested to do so by the registered entity, file a petition with FERC pursuant to 18 C.F.R. section 39.8(f) and (g) requesting that FERC order amendments to the delegation agreements of the two regional entities to effectuate the proposed transfer.
7. No transfer of a registered entity from one regional entity to another regional entity shall be effective (i) unless approved by FERC, and (ii) any earlier than the first day of January of the second calendar year following approval by FERC, unless an earlier effective date is agreed to by both regional entities and NERC and approved by FERC.

## **SECTION 1300 — COMMITTEES**

### **1301. Establishing Standing Committees**

The board may from time to time create standing committees. In doing so, the board shall approve the charter of each committee and assign specific authority to each committee necessary to conduct business within that charter. Each standing committee shall work within its board-approved charter and shall be accountable to the board for performance of its board-assigned responsibilities. A NERC standing committee may not delegate its assigned work to a member forum, but, in its deliberations, may request the opinions of and consider the recommendations of a member forum.

### **1302. Committee Membership**

Each committee shall have a defined membership composition that is explained in its charter. Committee membership may be unique to each committee, and can provide for balanced decision-making by providing for representatives from each sector or, where sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area, by bringing together a wide diversity of opinions from industry experts with outstanding technical knowledge and experience in a particular subject area. Committee membership shall also provide the opportunity for an equitable number of members from the United States and Canada, based approximately on proportionate net energy for load. All committees and other subgroups (except for those organized on other than a sector basis because sector representation will not bring together the necessary diversity of opinions, technical knowledge and experience in a particular subject area) must ensure that no two stakeholder sectors are able to control the vote on any matter, and no single sector is able to defeat a matter. With regard to committees and subgroups pertaining to development of, interpretation of, or compliance with standards, NERC shall provide a reasonable opportunity for membership from sectors desiring to participate. Committees and subgroups organized on other than a sector basis shall be reported to the NERC board and the Member Representatives Committee, along with the reasons for constituting the committee or subgroup in the manner chosen. In such cases and subject to reasonable restrictions necessary to accomplish the mission of such committee or subgroup, NERC shall provide a reasonable opportunity for additional participation, as members or official observers, for sectors not represented on the committee or subgroup.

### **1303. Procedures for Appointing Committee Members**

Committee members shall be nominated and selected in a manner that is open, inclusive, and fair. Unless otherwise stated in these rules or approved by the board, all committee member appointments shall be approved by the board, and committee officers shall be appointed by the Chairman of the Board.

### **1304. Procedures for Conduct of Committee Business**

1. Notice to the public of the dates, places, and times of meetings of all committees, and all nonconfidential material provided to committee members, shall be posted

on the Corporation's Web site at approximately the same time that notice is given to committee members. Meetings of all standing committees shall be open to the public, subject to reasonable limitations due to the availability and size of meeting facilities; provided that the meeting may be held in or adjourn to closed session to discuss matters of a confidential nature, including but not limited to personnel matters, compliance enforcement matters, litigation, or commercially sensitive or critical infrastructure information of any entity.

2. NERC shall maintain a set of procedures, approved by the board, to guide the conduct of business by standing committees.

### **1305. Committee Subgroups**

Standing committees may appoint subgroups using the same principles as in Section 1302.

## **SECTION 1400 — AMENDMENTS TO THE NERC RULES OF PROCEDURE**

### **1401. Proposals for Amendment or Repeal of Rules of Procedure**

In accordance with the bylaws of NERC, requests to amend or repeal the rules of procedure may be submitted by (1) any ten members of NERC, which number shall include members from at least three membership segments, (2) the Member Representatives Committee, (3) a standing committee of NERC to whose function and purpose the rule pertains, or (4) an officer of the ERO.

### **1402. Approval of Amendment or Repeal of Rules of Procedure**

Amendment to or repeal of rules of procedure shall be approved by the board after public notice and opportunity for comment in accordance with the bylaws of NERC. In approving changes to the rules of procedure, the board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the rules, and other stakeholders as appropriate. After board approval, the amendment or repeal shall be submitted to the ERO governmental authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the rules of procedure shall be effective until it has been approved by the applicable ERO governmental authorities.

### **1403. Alternative Procedure for Violation Risk Factors**

In the event the standards development process fails to produce violation risk factors for a particular standard in a timely manner, the Board of Trustees may adopt violation risk factors for that standard after notice and opportunity for comment. In adopting violation risk factors, the board shall consider the inputs of the Member Representatives Committee and affected stakeholders.

## SECTION 1500 — CONFIDENTIAL INFORMATION

### 1501. Definitions

1. **Confidential information** means (i) confidential business and market information; (ii) critical energy infrastructure information; (iii) personnel information that identifies or could be used to identify a specific individual, or reveals personnel, financial, medical, or other personal information; (iv) work papers, including any records produced for or created in the course of an evaluation or audit; (v) investigative files, including any records produced for or created in the course of an investigation; or (vi) cybersecurity incident information; provided, that public information developed or acquired by an entity shall be excluded from this definition.
2. **Confidential business and market information** means any information that pertains to the interests of any entity, that was developed or acquired by that entity, and that is proprietary or competitively sensitive.
3. **Critical energy infrastructure information** means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; and (iii) does not simply give the location of the critical infrastructure.
4. **Critical infrastructure** means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.
5. **Cybersecurity incident information** means any information related to, describing, or which could be used to plan or cause a cybersecurity incident as defined in 18 C.F.R. § 39.1.

### 1502. Protection of Confidential Information

1. **Identification of Confidential Information** — An owner, operator, or user of the bulk power system and any other party (the “submitting entity”) shall mark as confidential any information that it submits to NERC or a regional entity (the “receiving entity”) that it reasonably believes contains confidential information as defined by these rules, indicating the category or categories defined in Section 1501 in which the information falls. If the information is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the submitting entity shall so indicate and provide supporting references and details.

2. **Confidentiality** — Except as provided herein, a receiving entity shall keep in confidence and not copy, disclose, or distribute any confidential information or any part thereof without the permission of the submitting entity, except as otherwise legally required.
3. **Information no longer Confidential** – If a submitting entity concludes that information for which it had sought confidential treatment no longer qualifies for that treatment, the submitting entity shall promptly so notify NERC or the relevant regional entity.

### **1503. Requests for Information**

1. **Limitation** — A receiving entity shall make information available only to one with a demonstrated need for access to the information from the receiving entity.
2. **Form of Request** — A person with such a need may request access to information by using the following procedure:
  - 2.1 The request must be in writing and clearly marked “Request for Information.”
  - 2.2 The request must identify the individual or entity that will use the information, explain the requester’s need for access to the information, explain how the requester will use the information in furtherance of that need, and state whether the information is publicly available or available from another source or through another means. If the requester seeks access to information that is subject to a prohibition on public disclosure in the Commission-approved rules of a regional transmission organization or independent system operator or a similar prohibition in applicable federal, state, or provincial laws, the requester shall describe how it qualifies to receive such information.
  - 2.3 The request must stipulate that, if the requester does not seek public disclosure, the requester will maintain as confidential any information received for which a submitting party has made a claim of confidentiality in accordance with NERC’s rules. As a condition to gaining access to such information, a requester shall execute a non-disclosure agreement in a form approved by NERC’s board of trustees.
3. **Notice and Opportunity for Comment** — Prior to any decision to disclose information marked as confidential, the receiving entity shall provide written notice to the submitting entity and an opportunity for the submitting entity to either waive objection to disclosure or provide comments as to why the confidential information should not be disclosed. Failure to provide such comments or otherwise respond is not deemed waiver of the claim of confidentiality.

4. **Determination by ERO or Regional Entity** — Based on the information provided by the requester under Rule 1503.2, any comments provided by the submitting entity, and any other relevant available information, the chief executive officer or his or her designee of the receiving entity shall determine whether to disclose such information.
5. **Appeal** — A person whose request for information is denied in whole or part may appeal that determination to the President of NERC (or the President’s designee) within 30 days of the determination. Appeals filed pursuant to this Rule must be in writing, addressed to the President of NERC (or the President’s designee), and clearly marked “Appeal of Information Request Denial.”

NERC will provide written notice of such appeal to the submitting entity and an opportunity for the submitting entity to either waive objection to disclosure or provide comments as to why the confidential information should not be disclosed; provided that any such comments must be received within 30 days of the notice and any failure to provide such comments or otherwise respond is not deemed a waiver of the claim of confidentiality.

The President of NERC (or the President’s designee) will make a determination with respect to any appeal within 30 days. In unusual circumstances, this time limit may be extended by the President of NERC (or the President’s designee), who will send written notice to the requester setting forth the reasons for the extension and the date on which a determination on the appeal is expected.

6. **Disclosure of Information** — In the event the receiving entity, after following the procedures herein, determines to disclose information designated as confidential information, it shall provide the submitting entity no fewer than 21 days’ written notice prior to releasing the information in order to enable such submitting entity to (a) seek an appropriate protective order or other remedy, (b) consult with the receiving entity with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Rule. Should a receiving entity be required to disclose confidential information, or should the submitting entity waive objection to disclosure, the receiving entity shall furnish only that portion of the confidential information which the receiving entity’s counsel advises is legally required.
7. **Posting of Determinations on Requests for Disclosure of Confidential Information** — Upon making its determination on a request for disclosure of confidential information, NERC or the regional entity, as applicable, shall (i) notify the requester that the request for disclosure is granted or denied, (ii) publicly post any determination to deny the request to disclose confidential information, including in such posting an explanation of the reasons for the denial (but without in such explanation disclosing the confidential information), and (iii) publicly post any determination that information claimed by the submitting entity to be confidential information is not confidential information (but without in such



posting disclosing any information that has been determined to be confidential information).

#### **1504. Employees, Contractors and Agents**

A receiving entity shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom confidential information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

#### **1505. Provision of Information to FERC and Other Governmental Authorities**

1. **Request** — A request from FERC for reliability information with respect to owners, operators, and users of the bulk power system within the United States is authorized by Section 215 of the Federal Power Act. Other applicable ERO governmental authorities may have similar authorizing legislation that grants a right of access to such information. Unless otherwise directed by FERC or its staff or the other ERO governmental authority requesting the information, upon receiving such a request, a receiving entity shall provide contemporaneous notice to the applicable submitting entity. In its response to such a request, a receiving entity shall preserve any mark of confidentiality and shall notify FERC or other appropriate governmental authorities that the submitting entity has marked the information as confidential.
2. **Continued Confidentiality** — Each receiving entity shall continue to treat as confidential all confidential information that it has submitted to NERC or to FERC or another appropriate ERO governmental authority, until such time as FERC or the other appropriate ERO governmental authority authorizes disclosure of such information.

#### **1506. Permitted Disclosures**

1. **Confirmed Violations** — Nothing in this Section 1500 shall prohibit the disclosure of a violation at the point when the matter is filed with an appropriate governmental authority as a notice of penalty, the “violator” admits to the violation, or the alleged violator and NERC or the regional entity reach a settlement regarding the violation.
2. **Compliance Information** — NERC and the regional entities are authorized to exchange confidential information related to evaluations, audits, and investigations in furtherance of the compliance and enforcement program, on condition they continue to maintain the confidentiality of such information.

#### **1507. Remedies for Improper Disclosure**

Any person engaged in NERC or regional entity activity under section 215 of the Federal Power Act or the equivalent laws of other appropriate governmental authorities who improperly discloses information determined to be confidential may lose access to confidential information on a temporary or permanent basis and may be subject to

adverse personnel action, including suspension or termination. Nothing in Section 1500 precludes an entity whose information was improperly disclosed from seeking a remedy in an appropriate court.

## **SECTION 1600 — REQUESTS FOR DATA OR INFORMATION**

### **1601. Scope of a NERC or Regional Entity Request for Data or Information**

Within the United States, NERC and regional entities may request data or information that is necessary to meet their obligations under Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission’s regulations, 18 C.F.R. § 39.2(d). In other jurisdictions NERC and regional entities may request comparable data or information, using such authority as may exist pursuant to these rules and as may be granted by ERO governmental authorities in those other jurisdictions. The provisions of Section 1600 shall not apply to requirements contained in any Reliability Standard to provide data or information; the requirements in the Reliability Standards govern. The provisions of Section 1600 shall also not apply to data or information requested in connection with a compliance or enforcement action under Section 215 of the Federal Power Act, Section 400 of these Rules of Procedure, or any procedures adopted pursuant to those authorities, in which case the Rules of Procedure applicable to the production of data or information for compliance and enforcement actions shall apply.

### **1602. Procedure for Authorizing a NERC Request for Data or Information**

1. NERC shall provide a proposed request for data or information or a proposed modification to a previously-authorized request, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission’s Office of Electric Reliability at least twenty-one (21) days prior to initially posting the request or modification for public comment. Submission of the proposed request or modification to the Office of Electric Reliability is for the information of the Commission. NERC is not required to receive any approval from the Commission prior to posting the proposed request or modification for public comment in accordance with paragraph 1602.2 or issuing the request or modification to reporting entities following approval by the Board of Trustees.
2. NERC shall post a proposed request for data or information or a proposed modification to a previously authorized request for data or information for a forty-five (45) day public comment period.
  - 2.1. A proposed request for data or information shall contain, at a minimum, the following information: (i) a description of the data or information to be requested, how the data or information will be used, and how the availability of the data or information is necessary for NERC to meet its obligations under applicable laws and agreements; (ii) a description of how the data or information will be collected and validated; (iii) a description of the entities (by functional class and jurisdiction) that will be required to provide the data or information (“reporting entities”); (iv) the schedule or due date for the data or information; (v) a description of any restrictions on disseminating the data or information (e.g., “confidential,” “critical energy infrastructure information,” “aggregating”

or “identity masking”); and (vi) an estimate of the relative burden imposed on the reporting entities to accommodate the data or information request.

- 2.2. A proposed modification to a previously authorized request for data or information shall explain (i) the nature of the modifications; (ii) an estimate of the burden imposed on the reporting entities to accommodate the modified data or information request, and (iii) any other items from paragraph 1.1 that require updating as a result of the modifications.
3. After the close of the comment period, NERC shall make such revisions to the proposed request for data or information as are appropriate in light of the comments. NERC shall submit the proposed request for data or information, as revised, along with the comments received, NERC’s evaluation of the comments and recommendations, to the Board of Trustees.
4. In acting on the proposed request for data or information, the Board of Trustees may authorize NERC to issue it, modify it, or remand it for further consideration.
5. NERC may make minor changes to an authorized request for data or information without board approval. However, if a reporting entity objects to NERC in writing to such changes within 21 days of issuance of the modified request, such changes shall require board approval before they are implemented.
6. Authorization of a request for data or information shall be final unless, within thirty (30) days of the decision by the Board of Trustees, an affected party appeals the authorization under this Section 1600 to the ERO governmental authority.

### **1603. Owners, Operators, and Users to Comply**

Owners, operators, and users of the bulk power system registered on the NERC Compliance Registry shall comply with authorized requests for data and information. In the event a reporting entity within the United States fails to comply with an authorized request for data or information under Section 1600, NERC may request the Commission to exercise its enforcement authority to require the reporting entity to comply with the request for data or information and for other appropriate enforcement action by the Commission. NERC will make any request for the Commission to enforce a request for data or information through a non-public submission to the Commission’s enforcement staff.

### **1604. Requests by Regional Entity for Data or Information**

1. A regional entity may request that NERC seek authorization for a request for data or information to be applicable within the footprint of the regional entity, either as a freestanding request or as part of a proposed NERC request for data or information. Any such request must be consistent with this Section 1600.
2. A regional entity may also develop its own procedures for requesting data or information, but any such procedures must include at least the same procedural

elements as are included in this Section 1600. Any such regional entity procedures or changes to such procedures shall be submitted to NERC for approval. Upon approving such procedures or changes thereto, NERC shall file the proposed procedures or proposed changes for approval by the Commission and any other ERO governmental authorities applicable to the regional entity. The regional entity procedures or changes to such procedures shall not be effective in a jurisdiction until approved by, and in accordance with any revisions directed by, the Commission or other ERO governmental authority.

### **1605. Confidentiality**

If the approved data or information request includes a statement under Section 1602.1.1(v) that the requested data or information will be held confidential or treated as critical energy infrastructure information, then the applicable provisions of Section 1500 will apply without further action by a submitting entity. A submitting entity may designate any other data or information as confidential pursuant to the provisions of Section 1500, and NERC or the regional entity shall treat that data or information in accordance with Section 1500. NERC or a regional entity may utilize additional protective procedures for handling particular requests for data or information as may be necessary under the circumstances.

### **1606. Expedited Procedures for Requesting Time-Sensitive Data or Information**

1. In the event NERC or a regional entity must obtain data or information by a date or within a time period that does not permit adherence to the time periods specified in Section 1602, the procedures specified in Section 1606 may be used to obtain the data or information. Without limiting the circumstances in which the procedures in Section 1606 may be used, such circumstances include situations in which it is necessary to obtain the data or information (in order to evaluate a threat to the reliability or security of the bulk-power system, or to comply with a directive in an order issued by the Commission or by another ERO governmental authority) within a shorter time period than possible under Section 1602. The procedures specified in Section 1606 may only be used if authorized by the NERC Board of Trustees prior to activation of such procedures.
2. Prior to posting a proposed request for data or information, or a modification to a previously-authorized request, for public comment under Section 1606, NERC shall provide the proposed request or modification, including the information specified in paragraph 1602.2.1 or 1602.2.2 as applicable, to the Commission's Office of Electric Reliability. The submission to the Commission's Office of Electric Reliability shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information. The submission shall be made to the Commission's Office of Electric Reliability as far in advance, up to twenty-one (21) days, of the posting of the proposed request or modification for public comments as is reasonably possible under the circumstances, but in no event less than two (2) days in advance of the public posting of the proposed request or modification.

3. NERC shall post the proposed request for data or information or proposed modification to a previously-authorized request for data or information for a public comment period that is reasonable in duration given the circumstances, but in no event shorter than five (5) days. The proposed request for data or information or proposed modification to a previously-authorized request for data or information shall include the information specified in paragraph 1602.2.1 or 1602.2.2, as applicable, and shall also include an explanation of why it is necessary to use the expedited procedures of Section 1606 to obtain the data or information.
4. The provisions of paragraphs 1602.3, 1602.4, 1602.5 and 1602.6 shall be applicable to a request for data or information or modification to a previously-authorized request for data or information developed and issued pursuant to Section 1606, except that (a) if NERC makes minor changes to an authorized request for data or information without board approval, such changes shall require board approval if a reporting entity objects to NERC in writing to such changes within five (5) days of issuance of the modified request; and (b) authorization of the request for data or information shall be final unless an affected party appeals the authorization of the request by the Board of Trustees to the ERO governmental authority within five (5) days following the decision of the Board of Trustees authorizing the request, which decision shall be promptly posted on NERC's web site.