

NERC Compliance Process Bulletin #2011-001 Data Retention Requirements

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Background

Process Bulletin #2011-01 has been issued to clarify language changes to the NERC Rules of Procedure, Appendix 4C, Compliance Monitoring and Enforcement Program (CMEP) regarding data retention¹ that became effective January 1, 2011. This Bulletin supersedes the NERC Compliance Process Bulletin #2009-005 *Current In-Force Document Data Retention Requirements for Registered Entities*, dated June 29, 2009 (2009 Bulletin). The purpose of this Bulletin is to clarify the data retention requirement of the CMEP and to revise the text of the 2009 Bulletin.

The CMEP change requires registered entities to be able to demonstrate compliance with NERC Reliability Standards for an entire compliance verification period. The new language:

1. provides flexibility in the evidence that may be provided in addition to the retained data to demonstrate compliance for the entire audit period; and
2. does not alter the data retention requirements provided in individual NERC Reliability Standards.

Certain NERC Reliability Standards contain provisions relating to document retention, and in some cases, the document retention period is shorter than the three or six-year audit period. Such provisions were originally established to alleviate an undue burden caused by the volume of the data or information required. This Bulletin revises the 2009 Bulletin on this issue.

However, there are NERC Reliability Standards that contain provisions that do not relate to the volume of data or information required. For example, certain NERC Reliability Standards require retention only of the current, in-force version of a policy, plan procedure, or other singular document. This Bulletin is consistent with the 2009 Bulletin on this issue.

¹North American Electric Reliability Corporation Compliance Monitoring and Enforcement Program, Appendix 4C to the Rules of Procedure effective: January 1, 2011, ¶3.1.4.2 Period Covered.

Approved Program Requirements

The NERC Rules of Procedure and the CMEP include the following provisions related to data retention and information submission to NERC regarding compliance monitoring activities:

NERC Rules of Procedure, Appendix 4C CMEP Section 3.1.4.2²

NERC Rules of Procedure Section 401.3

NERC Rules of Procedure at Section 403.10

Clarification of Changes

Data retention period is less than the audit period

The revision to the CMEP mandates a change to the 2009 Bulletin regarding standards in which the document retention period is less than the audit period. The 2009 Bulletin stated:

... Provisions that do not require retention of information for the full audit period should recognize an undue burden to retain certain data or documentation. For example, retaining three-second data from an Energy Management System (EMS) or a Supervisory Control And Data Acquisition (SCADA) system for every three or six years would pose an undue burden due to the volume of records to be retained. **In such cases, the audit team will look to the standard for guidance regarding a reasonable data retention period.**
[Emphasis added]

As mentioned above, the CMEP changes clarify that a registered entity will be required to demonstrate that it was compliant with the standard through the entire audit period. This does not require registered entities to extend the data retention periods specified in the standards. This can be accomplished by providing other data as quality evidence to satisfy the data retention section of the standard.

²See the NERC Rules of Procedure at CMEP Section 3.1.4.2, which states “The entity’s data and information should show compliance with the Reliability Standards that are the subject of the Compliance Audit for the period beginning the day after the prior audit by the Compliance Enforcement Authority ended (or the later of June 18, 2007, or the Registered Entity’s date of registration if the registered entity has not previously been subject to a Compliance Audit), and ending with the End Date for the Compliance Audit. However, if another Compliance Monitoring and Enforcement process has been conducted with respect to the registered entity subsequent to the date that would otherwise be the start of the period, the period covered by the Compliance Audit may, in the Regional Entity’s discretion, begin with the completion of that Compliance Monitoring and Enforcement process for those Reliability Standards requirements that were the subject of the Compliance Monitoring and Enforcement process. The End Date will be stated in the Compliance Enforcement Authority’s notification of the Compliance Audit issued to the registered entity pursuant to Section 3.1.1. The registered entity will be expected to demonstrate compliance for the entire period described above. However, if a Reliability Standard specifies a document retention period that does not cover the entire period described above, the registered entity will not be found in noncompliance solely on the basis of the lack of specific information that has rightfully not been retained based on the retention period specified in the Reliability Standard. However, in such cases, the Compliance Enforcement Authority will require the registered entity to demonstrate compliance through other means.”

Some examples of other evidence may include, but are not limited to:

- a. The registered entity's process regarding the compliance requirement for which the retained data is offered as evidence of compliance;
- b. The registered entity's process regarding its retention and deletion or storage of data; or
- c. An attestation of an employee who has participated in the activity on a regular basis throughout the audit period, supported by other corroborating evidence (such as schedules, emails, and other applicable documentation).

Data retention requires only the current, in-force version of a document

This Process Bulletin does not change the 2009 Bulletin in regard to standards that require retention of only the current, in-force version of a policy, plan procedure, or other singular document. The 2009 Bulletin stated:

... It is good management practice for a registered entity to retain all versions of a policy, plan procedure, or other singular document for an entire audit period. Because companies are typically subject to longer retention periods, including as a result of their own internal document retention policies, there is no undue burden to retain such documents. Registered entities should ensure that all processes and procedures have the revision history, identifying the nature and location of changes from one version to the next. NERC or a Regional Entity may request revision history and a log of the dates any prior current, in-force versions of a policy, plan procedure, or other singular document were destroyed, as well as a copy of the company data retention policy....

...In the event the current, in-force version of a policy, plan procedure, or other singular document is noncompliant with the applicable reliability standard requirements and the Registered Entity cannot or will not provide prior versions of the current, in-force version of a policy, plan procedure, or other singular document, NERC or the Regional Entity may conclude the Registered Entity was in violation since the time the reliability standard requirement became effective for the particular Registered Entity. At the time that a Registered Entity is scheduled for a Compliance audit, NERC or a Regional Entity may also request in a document hold request that the Registered Entity keep all current, in-force versions of a policy, plan procedure, or other singular document for review during the audit and to retain such information until NERC or the Regional Entity advises otherwise.

If NERC or a Regional Entity receives a complaint or conducts an investigation as a result of an event on the system, NERC will expect the Registered Entity to provide the current, in-force version of a policy, plan procedure, or other singular document with respect to the time frame identified in the complaint or as a result of an event.

Thus, all registered entities must be able to demonstrate, if necessary, compliance for the entire audit period. Requests for this evidence will be based upon the compliance enforcement authority's determination of risk, consistent with risk and performance-based auditing.

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This document is designed to convey compliance guidance from NERC's various activities. It is not intended to establish new requirements under NERC's Reliability Standards or to modify the requirements in any existing NERC Reliability Standards. Compliance will continue to be determined based on language in the NERC Reliability Standards as they may be amended from time to time. Implementation of this compliance Bulletin is not a substitute for compliance with requirements in NERC's Reliability Standards.

Process disclaimer: NERC reserves the right to issue new process Bulletins or modify existing process Bulletins when necessary and at its discretion.