

## Consideration of Comments on Initial Ballot — Violation Severity Levels for the EOP set of Standards (Project 2008-08)

### **Summary Consideration:**

The EOP VSL DT appreciates the industry feedback regarding the EOP standard VSLs. The following are highlights of stakeholder input and the VSL DT response to each item.

VSL Consistency with Requirements: The proposed set of EOP VSLs represents a reasonable and consistent approach to assigning severity for a non-compliant condition. The EOP VSL DT also recognizes that, as demonstrated by comments received, additional improvements are needed. Any additional VSL improvements are best made in concurrence with revising the language of the requirements. The EOP VSL DT concludes that many of the comments received were related to the clarity of the requirement or the lack of clear measures within the standard, and not the VSL itself. VSLs replace the Levels of Non-compliance and are used, along with VRFs, as a starting point in determining sanctions for violation of requirements. (The Sanction Guidelines includes a list of factors that the Compliance Enforcement Authority uses to make adjustments to this “starting point”.) The EOP VSL DT cannot make revisions to requirements within the scope of this project. Therefore we would expect that additional improvements to the VSLs will occur as current and future standard drafting teams make revisions to the standards, including requirements, measures and compliance elements. All NERC Standards are slated for review in the course of the Standards Development Work Plan established by NERC. We encourage all stakeholders to participate in the standard development process.

Binary: In accordance with FERC Guideline 2, to provide consistency in the VSL assignments for binary requirements, the EOPVSLDT revised the VSLs for some requirements to assign binary VSLs at the Severe category level. Such change is consistent with the Commission’s June 24, 2009 VSL order related to binary VSL assignments and will provide consistency and uniformity in the assignment of penalties for violations of binary requirements.

Balloting: Several comments stated that the VSLs for each standard should have been balloted individually instead of in the current sets. While the team can understand this concern we identified the administrative burden that balloting individually would cause in following FERC’s Order to establish VSLs for the original 83 approved NERC standards. NERC determined early in the project that working through “sets” of VSLs would allow for consistency across the sets and help reduce the administrative load on stakeholders.

Minor Text Changes: A minor errata change was made on one of the VSLs and to two of the version numbers in the table headings. These will be noted prior to opening of the recirculation ballot.

If you feel that the drafting team overlooked your comments, please let us know immediately. Our goal is to give every comment serious consideration in this process. If you feel there has been an error or omission, you can contact the Vice President and Director of Standards, Gerry Adamski, at 609-452-8060 or at [gerry.adamski@nerc.net](mailto:gerry.adamski@nerc.net). In addition, there is a NERC Reliability Standards Appeals Process.<sup>1</sup>

<sup>1</sup> The appeals process is in the Reliability Standards Development Procedure: [http://www.nerc.com/files/RSDP\\_V6\\_1\\_12Mar07.pdf](http://www.nerc.com/files/RSDP_V6_1_12Mar07.pdf).

Voter	Entity	Segment	Vote	Comment
Michael Gammon	Kansas City Power & Light Co.	1	Affirmative	Although do not agree with the Severe only VSL for requirements that are administrative, the elimination of the double jeopardy VSL's is a vast improvement.
Charles Locke		3		
Thomas Saitta		6		
Scott Heidtbrink	Kansas City Power & Light Co.	5	Affirmative	But do not agree with the Severe only VSL
<p><b>Response:</b> The EOP VSL DT appreciates your comments. Such change is consistent with the Commission's June 24, 2009 VSL order related to binary VSL assignments and will ensure consistency and uniformity in the assignment of penalties for violations of binary requirements.</p>				
Rebecca Berdahl	Bonneville Power Administration	3	Affirmative	BPA is in support of the VSLs, however, noted a couple of minor corrections that need to be made: EOP-008-1 and EOP-009-1 do not exist on the NERC website, so the references in the VSL document should be changed to EOP-008-0 and EOP-009-0 respectively.
Francis J. Halpin	Bonneville Power Administration	5	Affirmative	EOP 008-1 and 009-1 do not exist on the NERC website, the references in the VSL document should point to EOP 008-0 and 009-0.
Donald S. Watkins	Bonneville Power Administration	1	Affirmative	EOP-008-1 and EOP-009-1 do not exist on the NERC website, so the references in the VSL document should be changed to EOP-008-0 and EOP-009-0 respectively.
Brenda S. Anderson		6		
<p><b>Response:</b> Thank you for your comment, the correction you suggested will be made to the headings in the VSL Tables. The change will be noted in the announcement for the recirculation ballot.</p>				

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Peggy Abbadini	Power Energy Group LLC	8	Negative	EOP-009 decrease from 25% to 15% of black start units has a greater punitive affect on smaller entities
<p><b>Response:</b> The DT appreciates your comments. The DT believes that if a violation is identified, the VSL, along with other compliance considerations, will be utilized in determining penalty. The VSLs that were defined by percentage of non-compliant performance and were modified to reflect FERC's guidance to use 5% increments. The VRF and VSL for a requirement assist in providing a starting point for the determination of a penalty or sanction for a violation of that requirement. The ERO Sanction Guidelines identify several factors, including the size of the violator, which the Compliance Enforcement Authority uses to determine the actual penalty. Information on actual penalties assessed by the Compliance Enforcement Authority can be seen at the following site: <a href="http://www.nerc.com/filez/enforcement/index.html">http://www.nerc.com/filez/enforcement/index.html</a></p>				
Terry L. Blackwell  Zack Dusenbury  Suzanne Ritter	Santee Cooper	1  3  6	Negative	Santee Cooper believes the VSLs of these standards should be balloted separately in addition to an interval between ballots that will allow time for proper review.
<p><b>Response:</b> The DT appreciates your comments. The decision to ballot these as groups as opposed to individually was made early in our project to assist in managing the scope and reduce the administrative complexity.</p>				
Dana Cabbell  Marcus V Lotto	Southern California Edison Co.	1  6	Affirmative	<p>SCE appreciates the work of the drafting team on the EOP Violation Severity Levels (VSLs).</p> <p>Although the VSLs are generally well-drafted, we would note that EOP-009-1 "Documentation of Blackstart Generating Unit Test Results" includes an error in the alternative language for the Requirement R1 VSLs. The text following the "OR" in the Moderate VSL category should be modified to read, "The Generator Operator's testing records for Requirement R1 are missing more than 5% but less than 10% of the required information." This change will eliminate the uncertainty as to how the absence of exactly 5% of the required information would be treated for VSL purposes.</p> <p>Although we understand that Project 2008-08 arose from the June 2007 order in which FERC directed NERC to replace the former "Levels of Non-Compliance" in certain reliability standards with "Violation Severity Levels," we strongly agree with the NERC</p>

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				<p>Board of Trustees recent direction to the NERC Standards Committee that the NERC Reliability Standards Development Procedure should be modified to require that Violation Risk Factors and Violation Severity Levels be developed at the same time and by the same drafting team that drafts the underlying reliability standard. We have seen the negative impact of the inconsistent use of the “roll up” approach to assigning VSLs in reliability standards. Although the roll-up approach may be beneficial to avoid double jeopardy in some cases, it cannot be utilized in all instances of requirements containing subrequirements. Since the decision to roll-up is left to the discretion of the various VSL drafting teams, it has created potential and actual inconsistencies. We recommend that the development of all VSLs occur in conjunction with the development/revision of the respective reliability standard. If the VSLs are developed in conjunction with the requirements, the requirements can be revised as needed to ensure that compliance can be appropriately measured.</p>
<p><b>Response:</b> The EOP VSL DT agrees with your comment on the moderate VSL of EOP 009 R1 and will make suggested change. This change will be noted in the announcement for the recirculation ballot.</p> <p>The DT understands your general concerns and encourages you to participate in the standards development process and provide your suggestions and ideas.</p> <p>The “roll up” approach was used in instances where the requirement and its subrequirements, have a single reliability-related purpose. In situations where the requirement’s subrequirements identify different reliability-related purposes, then the EOP VSL DT proposed an individual set of VSLs for each subrequirement. As these standards are revised, we expect that subrequirements that address a different reliability-related purpose from their primary requirement will be revised so that these subrequirements become primary requirements with their own VRF and VSLs.</p>				
Larry Monday	E.ON U.S. LLC	1	Negative	<p>The 5% increments used in EOP-003-1 R3 are not always suitable especially in cases where the number of “required entities” is small (could be as low as 1 or2) Also, consideration might be given to the significance of the “required entities” requiring coordination of plans rather than strictly the number of “required entities”</p>
Charles A. Freibert	Louisville Gas and Electric Co.	3		<p>EOP-003-1 R7 is unclear on how the base number of “automatic actions” is determined for use in calculating the percentages used in the VSLs. A better definition of “automatic actions”, is needed or the percentage approach should not be used in these VSLs</p>
Charlie Martin		5		
Daryn Barker		6		<p>E.ON U.S. does not believe that the balloting process on these VSL levels is appropriate. The bundling of VSLs with a single “up or down” vote that applies to all the VSLs in that group creates a situation where acceptable VSLs are needlessly rejected. In instances where the majority of the VSLs are acceptable, an entity is forced to vote down all the VSLs because of the one problematic VSL. E.ON U.S. suggests that the only remedy to this issue it to ballot each VSL separately. While it is recognized that</p>

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				this may be a tedious process, it will in the end provide at least a baseline group of VSLs for the standards. Work on the rejected VSLs can then be the focus of additional discussions.
<p><b>Response:</b> The EOP VSL DT appreciates your comments. The VSLs that were defined by percentage of non-compliant performance were modified to reflect FERC's guidance to use 5% increments. The VRF and VSL for a requirement assist in providing a starting point for the determination of a penalty or sanction for a violation of that requirement. The ERO Sanction Guidelines identify several factors, including the size of the violator, which the Compliance Enforcement Authority uses to determine the actual penalty. Information on actual penalties assessed by the Compliance Enforcement Authority can be seen at the following site: <a href="http://www.nerc.com/filez/enforcement/index.html">http://www.nerc.com/filez/enforcement/index.html</a></p> <p>In accordance with FERC's Guideline 3, the VSL assignment(s) are consistent with the requirement. The EOP VSL DT was unable to modify the requirement language but encourages you to contact current and future drafting teams to review and modify as necessary.</p> <p>The decision to ballot these VSLs as groups as opposed to individually was made early in the project to assist in managing the scope and reduce the administrative complexity.</p>				
Terry Volkman	Volkman Consulting, Inc.	8	Negative	The changes to EOP-009 R1 are discriminatory to the smaller entities. A smaller entity with 4 black start generators go from complaint to a Severe VSL with one generator missing the requirement.
<p><b>Response:</b> The DT appreciates your comments. The DT believes that if a violation is identified, the VSL, along with other compliance considerations, will be utilized in determining penalty. The VSLs that were defined by percentage of non-compliant performance were modified to reflect FERC's guidance to use 5% increments. The VRF and VSL for a requirement assist in providing a starting point for the determination of a penalty or sanction for a violation of that requirement. The ERO Sanction Guidelines identify several factors, including the size of the violator, which the Compliance Enforcement Authority uses to determine the actual penalty. Information on actual penalties assessed by the Compliance Enforcement Authority can be seen at the following site: <a href="http://www.nerc.com/filez/enforcement/index.html">http://www.nerc.com/filez/enforcement/index.html</a></p>				
Paul B. Johnson  Raj Rana  Brock Ondayko  Edward P. Cox	American Electric Power   AEP Service Corp.  AEP Marketing	1  3 5 6	Negative	<p>The SDT seeks to advance VSLs to the NERC BOD by simply applying severe VSLs to binary compliance measures. In doing so, it is not assessing the reliability compliance severity under the FERC and NERC approved structure, which recognizes the variability of compliance with which a requirement has or has not been met. This approach will lead to significantly higher penalties for noncompliance that are not commensurate with the appropriate levels of severity and risk factors for the level to which a mandatory reliability compliance standard is violated. The SDTs often developed binary compliance measures because the standards were written by the SDT without the knowledge of the variable VSLs and VRFs compliance penalty matrix.</p> <p>AEP believes that it is the measures that should be revised through the standards development process to resolve the discontinuity between the binary measures and the variable compliance penalty matrix, not by arbitrarily assuming that all such</p>

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				<p>requirements are of high severity level. As measures are improved in the standard development process, the determination of the degree of severity or risk level should follow directly from the compliance measure.</p> <p>In the interim, stakeholders have provided input on the appropriate severity level of the requirements and to suggest approaches for creating degrees of severity level for binary measures. The SDT describes that these suggestions lead to different interpretations or expansions of the existing standard. Again, it is the measures in the standard that must be revised through the standards development process to resolve the discontinuity between the binary measures and the variable compliance penalty matrix, not to dismiss stakeholder comments and proceed to ballot by assuming that all binary measures constitute high severity levels.</p>
<p><b>Response:</b> The EOP VSL DT appreciates your comments. In accordance with Guideline 2, to ensure consistency in the VSL assignments for binary requirements, the DT assigned noncompliance with all binary requirements to the SEVERE VSL category level. Such change is consistent with the Commission's June 24, 2009 VSL order related to binary VSL assignments and will ensure consistency and uniformity in the assignment of penalties for violations of binary requirements. In accordance with FERC's Guideline 3, the VSL assignment(s) are consistent with the requirement. The EOP VSL DT was unable to modify the requirement or measure language but encourages you to contact current and future drafting teams to review and modify as necessary.</p> <p>The VRF and VSL for a requirement assist in providing a starting point for the determination of a penalty or sanction for a violation of that requirement. The ERO Sanction Guidelines identify several factors that the Compliance Enforcement Authority uses to determine the actual penalty. Information on actual penalties assessed by the Compliance Enforcement Authority can be seen at the following site: <a href="http://www.nerc.com/filez/enforcement/index.html">http://www.nerc.com/filez/enforcement/index.html</a></p>				
Terry Bilke	Midwest ISO, Inc.	2	Affirmative	<p>There is too much industry (to include NERC) effort being spent on compliance elements. NERC should develop a job aid for drafting teams so that simpler and more objective VRFs and VSLs are developed with the standards. NERC should work with the FERC so these objective VRFs and VSLs are approved when submitted. We should not be expending this much effort on something that adds so little value to reliability.</p>
<p><b>Response:</b> The DT appreciates your comments. The DT agrees and encourages your continued promotion of a common approach for the definition and assignment of VRFs and VSLs.</p>				
Edward W Pourciau	Georgia System Operations Corporation	3	Negative	<p>These standards classify all binary violations as severe. Binary violations are not severe. They are not lower. The four violation levels apply to standards that can be violated in degrees. The four levels do not apply to a binary violation. Perhaps the concepts upon which the penalty matrix is built should be modified to correct this misapplication of the penalty matrix.</p>

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<p><b>Response:</b> The DT appreciates your comments. In accordance with Guideline 2, to ensure consistency in the VSL assignments for binary requirements, the DT revised the VSL for all binary requirements to assign them a binary VSL at the SEVERE category level. Such change is consistent with the Commission's June 24, 2009 VSL order related to binary VSL assignments and will ensure consistency and uniformity in the assignment of penalties for violations of binary requirements.</p>				