

Consideration of Comments on Initial Ballot — Violation Severity Levels for the INT, PER, and NUC sets of Standards (Project 2007-23)

Summary Consideration:

The VSL DT appreciates the industry feedback regarding the INT, PER and NUC 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 VSLs represents a reasonable and consistent approach to assigning severity for a non-compliant condition. The 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 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 ERO Sanction Guidelines lists several factors that are used to make adjustments to this “starting point”.) The 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.

Risk versus Severity: Some confusion remains related to the differences between Violation Risk Factors (VRFs) and Violation Severity Levels (VSL). VRFs are used to assess the risk to the bulk electric system if a requirement is not met and VSLs are used in classifying and identifying the degree or level by which the entity has failed to satisfy a requirement and are referenced after a determination has been made that an entity’s performance is non-compliant. For example, some commented that, for certain VSLs, the violation of the requirement does not have a “direct impact on reliability” and therefore the commenter did not agree with the VSL assignment. This type of feedback is really questioning the appropriateness of the VRF assignment which is out of scope for the VSL DT work.

Binary: In accordance with FERC Guideline 2, to provide consistency in the VSL assignments for binary requirements, the VSL DT 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. The VSL DT determined early in our project that working through “sets” of VSLs would allow for consistency across the sets and help reduce the administrative load on stakeholders.

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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. In addition, there is a NERC Reliability Standards Appeals Process.¹

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		
<p>Response: The 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>				
Dana Cabbell	Southern California Edison Co.	1	Affirmative	<p>Although we understand that Project 2007-23 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 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 the following recommendations that we would like you to consider:</p> <p>1. Concern: There appears to be an inconsistent gradation between reliability standards involving duration-based requirements. Many requirements in the various reliability standards require specific action prior to a defined elapsed time. The VSLs for all reliability standards appear to have inconsistencies when the requirement specifies an action within a defined elapsed time. Recommendation: We recommend enhancing the guideline(s) for VSL development to follow specific criteria for assigning severity level based on elapsed time. The VSLs may be based on some ratio/multiple of the original time stated in the requirement. For example, if a requirement specifies that an action be</p>
Marcus V Lotto		6		

¹ The appeals process is in the Reliability Standards Development Procedure: http://www.nerc.com/files/RSDP_V6_1_12Mar07.pdf.

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				<p>performed within 30 days, the VSL gradations might use 30 day increments: Lower - Action was performed within 31-60 days Moderate - Action was performed within 61-90 days High - An action was performed within 91-120 days Severe - Either action was not performed or it was performed >120 days.</p> <p>2. Concern: There appears to be an inconsistency in the use of “binary” VSLs as opposed to “graded” VSLs. Because the decision as to whether a requirement is binary in nature is left to the various VSL drafting teams, it appears to be inconsistently applied. Some requirements that appear amenable to a graded approach have VSLs that are “binary” in nature. Recommendation: We recommend that the development of VSLs occur in conjunction with the development/revision of the respective standard. If the VSLs are developed in conjunction with the requirements, the requirements can be revised as needed to ensure compliance can be measured using the appropriate level. Additionally, we recommend more prescriptive guidance to VSL drafting teams surrounding the use of “binary” VSLs.</p> <p>3. Concern: There appears to be an inconsistent use of the “roll up” approach to assigning VSLs. 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 sub-requirements. Since the decision to roll-up is left to the discretion of the various VSL drafting teams, it creates potential inconsistencies. Recommendation: We recommend that the development of 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 compliance can be measured using the appropriate level.</p> <p>4. Concern: There appears to be an inconsistent application of percentages in VSLs (i.e. 5% increments in some, but not all). Recommendation: We recommend that the guidelines for development of VSLs include the standardization of percentages, much like the quartiles in the existing VSL Development Guidelines Criteria. Additionally, the development of the VSLs should occur in conjunction with the development/revision of the respective reliability standards. If the VSLs are developed in conjunction with the requirements, the requirements can be revised as needed to ensure compliance can be measured using the appropriate level/gradation.</p>
<p>Response: The VSL DT appreciates your comments. The VSL DT understands your concerns. In accordance with Guideline 3, the VSL assignment(s) are consistent with the requirement. The 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 drafting team did aim for consistency in proposing VSLs for standards with timing elements. The drafting team could not identify a single time delay</p>				

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<p>that was applicable for all requirements. For some requirements, the intent of the requirement may be mostly met with a time delay that was a full 30 days beyond the original due date (meeting the criteria for a Lower VSL) , while for another requirement a time delay of 5 days beyond the original due date may have met the criteria for a Lower VSL. The VSL DT decided to determine a reasonable time delay for the “Lower” VSL and then increment by 10 calendar days for the Moderate, High and Severe VSLs.</p> <p>The drafting team made a good faith effort to minimize the number of requirements treated as “binary” and invited stakeholders, during the public comment period, to propose alternatives with multiple VSLs, and the team was responsive to the suggestions provided resulting in changing several “binary” VSLs.</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 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> <p>FERC did not endorse the use of the quartile approach and in the set of VSLs that FERC directed us to modify, where percentages were used, the percentage thresholds were 5%, 10%, 15%, and greater than 15%. The drafting team adopted these thresholds for most of its VSLs – there were some VSLs that have different percentages that were justifiable either because they match historical levels of noncompliance or because application of the 5%, 10%, 15% thresholds didn’t result in a set of VSLs that met NERC’s criteria for Lower, Moderate, High and Severe VSLs.</p>				
Ronald L. Donahey	Tampa Electric Co.	3	Negative	I don't believe this follows the guidelines(2b,3,4) given by FERC & NERC for this project for the INT standards.
<p>Response: The VSL DT is unable to respond to your comment due to lack of specificity. The DT believes that the VSLs as presented meet the Guidelines as defined by FERC.</p>				
David Frank Ronk	Consumers Energy	4	Affirmative	PER-002-0 R1 “ The intent of the VSLs for this requirement seems appropriate; however, the VSLs are poorly worded. Using the Lower VSL as an example, the VSL states, “The responsible entity failed to staff 5% or less with adequately trained operating personnel.” The intent seems to be that at least 95% of the staff, but less than 100%, were adequately trained. However, the VSL could easily be read explicitly to mean that, of all staff, no more than 5% of them are allowed to be adequately trained. Suggested alternate wording: “...at least 95%, but less than 100%, of the staff were adequately trained...”
<p>Response: The VSL DT appreciates your comments. The existing VSL language is accurate as written and the DT has decided not to make changes at this time. The DT encourages you to contact current and future drafting teams to review and modify as necessary.</p>				
David A. Lapinski	Consumers Energy	3	Affirmative	PER-002-0 R1 Suggested alternate wording: “...at least 95%, but less than 100%, of the staff were adequately trained...”

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<p>Response: The VSL DT appreciates your comments. The existing VSL language is accurate as written and the DT has decided not to make changes at this time. The DT encourages you to contact current and future drafting teams to review and modify as necessary.</p>				
Terry L. Blackwell	Santee Cooper	1	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.
Zack Dusenbury		3		
Suzanne Ritter		6		
<p>Response: The VSL 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>				
Horace Stephen Williamson	Southern Company Services, Inc.	1	Negative	The Moderate VSL for Requirement 3 of NUC-001-0 does not refer to the agreement between Transmission Entities and the Nuclear Plant Operator in Requirement 2. Without this reference this VSL could be interpreted in such a way that any and all analysis done by a Transmission Entity would have to be communicated to the Nuclear Plant Operator. A suggested correction could be worded as: The responsible entity incorporated the NPIRs into its planning analyses but did not communicate the results to the Nuclear Plant Generator Operator as required by the agreements between the Transmission Entities and the Nuclear Plant Operator.
Bobby Kerley	Alabama Power Company	3		
Don Horsley	Mississippi Power	3		
Gwen S Frazier	Gulf Power Company	3		
Leslie Sibert	Georgia Power Company	3		

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<p>Response: The VSL DT appreciates your comments. The existing VSL language is accurate and reflects the requirement as written and the DT has decided not to make changes at this time. The DT encourages you to contact current and future drafting teams to review and modify as necessary. VSLs are not used to determine whether there has been noncompliant performance, VSLs are used “after” there has been a finding of noncompliance with a specific requirement – all of the VSLs for Requirement R3 are associated solely with noncompliance with R3 – they cannot be used with any other requirement.</p>				
Larry Monday	E.ON U.S. LLC	1	Negative	<p>The revised VSLs for INT-010-0 R1 are graduated to the tardiness of the action. Is tardiness that significant? The original VSLs are graduated to the discrete number of times R1 was not met. E.ON U.S. believes that the original VSL better reflects the intent of R1</p>
Charles A. Freibert	Louisville Gas and Electric Co.	3		<p>The proposed VSLs for PER-002-0 R1 are confusing and are not clear on what is being assessed.</p>
Charlie Martin		5		<p>The proposed VSLs for PER-002-1 R2 are not consistent with the language of R2. R2 requires the TO and BA to have a training program for certain operating personnel it says nothing about the implementation or administration of the training program which is the basis for the proposed VSL.</p>
Daryn Barker		6		<p>The proposed VSLs for R2 also create the possibility of double jeopardy with VSLs for R3. There seems to be multiple opportunities for double jeopardy within the proposed VSLs for the PER standards. .</p> <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 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>
<p>Response: The VSL DT appreciates your comments. In accordance with FERC’s Guideline 3, the VSL assignment(s) for INT-010 R1 and PER-002 R1 are consistent with the requirement. The 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>Regarding PER-002, R2 and R3, each set of VSLs supports the associated requirement, as written. The VSL DT encourages you to contact current and future drafting teams to review and modify as necessary.</p> <p>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</p>				

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administrative complexity.				
Paul B. Johnson	American Electric Power	1	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 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>
Raj Rana		3		
Brock Ondayko	AEP Service Corp.	5		
Edward P. Cox	AEP Marketing	6		
<p>Response: The VSL DT appreciates your comments. In accordance with Guideline 2, to ensure consistency in the VSL assignments for binary requirements, the VSL DT assigned noncompliance with all binary requirements to the SEVERE VSL category. 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 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. A review of the actual penalties already assessed demonstrates that the Compliance Enforcement Authority is making a good faith effort at assigning penalties that are commensurate with the associated infraction. This information can be seen at the following site: http://www.nerc.com/filez/enforcement/index.html</p>				

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Terry Bilke	Midwest ISO, Inc.	2	Affirmative	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>Response: The VSL 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	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>Response: The VSL DT appreciates your comments. In accordance with Guideline 2, to ensure consistency in the VSL assignments for binary requirements, the VSL DT revised the VSL for this requirement to assign it 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>				