

Setting VSLs

All draft standards submitted for posting should have VSLs that support the VSL Order, NERC's VSL compliance filing, and the concepts documented by the VSL DT and included in the informational filing on VRFs and VSLs.

Start With the End in Mind

Each SDT is responsible for documenting its reasoning for proposing VRFs and VSLs as part of the request to regulatory authorities to approve the standard. To ensure that the team has this justification and stakeholder response to the justification, each team should provide its justification when it posts its VRFs and VSLs for comment. In the associated comment form the team should ask stakeholders if they agree with the VRFs/VSLs and the team's justification. If the drafting team modifies the standard and its associated VRFs and VSLs based on stakeholder comments, the team should make sure that the justification for the VRFs and VSLs is maintained. This justification should, as a minimum, address the following:

- How the proposed VRFs and VSLs meet NERC's criteria for setting VRFs and VSLs
- How the proposed VRFs and VSLs meet FERC's guidelines for setting VRFs and VSLs

Here are highlights:

Format:

- VSLs should be written in the past tense and should describe the noncompliant performance rather than the compliant performance. (*Pretend you are the Compliance Enforcement Authority – with respect to the requirement, how far from full compliance was the performance or product measured?*)
- If a requirement has what we had been calling “sub-requirements” these are now called, “Parts” when cross referenced in a standard. The reference should include the requirement number followed by a comma, followed by the word “Part”, followed by the part number as shown below:
 - Requirement R1, Part 1.5
- For requirements that are applicable to multiple functional entities (e.g., “Each Reliability Coordinator, Balancing Authority, Transmission Operator shall . . .”) it is acceptable to use the term, “The responsible entity” instead of naming all the entities.
- Every requirement must have a set of one to four VSLs to categorize noncompliant performance with the requirement, in the requirement's entirety. We will no longer produce a separate set of VSLs for each of the “parts” of a requirement.

Criteria for determining which VSL to use:

It is preferable to have four VSLs, but where that doesn't work, the VSLs should be defensible in supporting the criteria in the table below.

Lower VSL	Moderate VSL	High VSL	Severe VSL
The performance or product measured almost meets the full intent of the requirement.	The performance or product measured meets the majority of the intent of the requirement.	The performance or product measured does not meet the majority of the intent of the requirement, but does meet some of the intent.	The performance or product measured does not substantively meet the intent of the requirement.

Requirements: If the requirement is a “pass or fail” type requirement or when any degree of noncompliant performance would result in totally or mostly missing the reliability intent of the requirement, then the single VSL must be “Severe”. (This is not the same as saying that the requirement is really important and any noncompliance would have an adverse reliability impact – the impact to reliability should be addressed through the VRF, not the VSL.)

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
EOP-002 R3.	N/A	N/A	N/A	The Balancing Authority experienced an operating capacity or energy emergency and failed to communicate its current and future system conditions to its Reliability Coordinator and its neighboring Balancing Authorities.
EOP-003 R4.	N/A	N/A	N/A	The responsible entity failed to consider one of the five required elements.

Requirements with Wide Range of Noncompliant Performance: If a requirement has a wide range of noncompliant performance that at least partially meets the intent of the requirement, then that requirement should have multiple VSLs. There are many different ways of developing VSLs to categorize different degrees of noncompliant performance. The set of VSLs developed should collectively address all of the elements in the requirement. Thus, if a requirement includes both specific actions and a timeframe for completion of those actions, then the VSLs should address noncompliance with both the completeness of the actions and the timeliness of those actions. Not all VSLs need to address both components of the requirement, but collectively the set of VSLs must address all aspects of the requirement.

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
PRC-009 R2.	The responsible entity that owns or operates a UFLS program (as required by its Regional Reliability Organization) provided its underfrequency data as necessary for its Regional Reliability Organization to maintain and update a UFLS program database but its annual update was late by 30 calendar days or less.	The responsible entity that owns or operates a UFLS program (as required by its Regional Reliability Organization) provided its underfrequency data as necessary for its Regional Reliability Organization to maintain and update a UFLS program database but its annual update was late by more than 30 calendar days but less than or equal to 40 calendar days.	The responsible entity that owns or operates a UFLS program (as required by its Regional Reliability Organization) provided its underfrequency data as necessary for its Regional Reliability Organization to maintain and update a UFLS program database but its annual update was late by more than 40 calendar days but less than or equal to 50 calendar days.	The responsible entity that owns or operates a UFLS program (as required by its Regional Reliability Organization) did not provide its underfrequency data as necessary for its Regional Reliability Organization to maintain and update a UFLS program database, OR The responsible entity's annual update was late by more than 50 calendar days.

Requirements with Parts that Contribute Unequally to the Requirement: If a requirement has several parts, and the parts contribute unequally to the reliability-related objective of the requirement, then noncompliance with each of the parts should be clearly associated with at least one of the VSLs.

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
EOP-001 R7.	The responsible entity demonstrated that it coordinated its emergency plans with other Transmission Operators and Balancing Authorities as appropriate but the coordination specified in R7, Part 7.4 was applicable and was not included.	The responsible entity demonstrated that it coordinated its emergency plans with other Transmission Operators and Balancing Authorities as appropriate but the coordination specified in R7, Part 7.3 was applicable and was not included.	The responsible entity demonstrated that it coordinated its emergency plans with other Transmission Operators and Balancing Authorities as appropriate but the coordination specified in either R7, Part 7.1 or in R7, Part 7.2 was applicable and was not included.	The responsible entity demonstrated that it coordinated its emergency plans with other Transmission Operators and Balancing Authorities as appropriate but the coordination specified in two (2) or more of the four (4) Parts of Requirement R7 were applicable and were not included.

Requirements with Parts that Contribute Equally to the Requirement: If a requirement has several parts, and the parts contribute equally to the reliability-related objective of the requirement, the VSLs should be set either on counts (e.g., missing one of four components) or percentages (e.g., missing 5% of the components).

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
PRC-009 R1.	The responsible entity that owns or operates a UFLS program failed to include one of the elements listed in PRC-009-0 Requirement R1, Parts 1.1 through 1.4 in the analysis of the performance of UFLS equipment and Program effectiveness, as described in PRC-009-0 R1, following system events resulting in system frequency excursions below the initializing set points of the UFLS program.	The responsible entity that owns or operates a UFLS program failed to include two of the elements listed in PRC-009-0 Requirement R1, Parts 1.1 through 1.4 in the analysis of the performance of UFLS equipment and Program effectiveness, as described in PRC-009-0 R1, following system events resulting in system frequency excursions below the initializing set points of the UFLS program.	The responsible entity that owns or operates a UFLS program failed to include three of the elements listed in PRC-009-0 Requirement R1, Parts 1.1 through 1.4 in the analysis of the performance of UFLS equipment and Program effectiveness, as described in PRC-009-0 R1, following system events resulting in system frequency excursions below the initializing set points of the UFLS program.	The responsible entity that owns or operates a UFLS program failed to conduct an analysis of the performance of UFLS equipment and Program effectiveness, as described in PRC-009-0 Requirement R1, following system events resulting in system frequency excursions below the initializing set points of the UFLS program.
PRC-016 R2.	For each Misoperation, the responsible entity that owns an SPS failed to take 5% or less of the corrective actions designed to avoid future SPS Misoperations.	For each Misoperation, the responsible entity that owns an SPS failed to take more than 5% up to (and including) 10% of the corrective actions designed to avoid future SPS Misoperations.	For each Misoperation, the responsible entity that owns an SPS failed to take more than 10% up to (and including) 15% of the corrective actions designed to avoid future SPS Misoperations.	For each Misoperation, the responsible entity that owns an SPS failed to take more than 15% of the corrective actions designed to avoid future SPS Misoperations.

Use of Percentages: When percentages are used to describe noncompliant performance, the following should be used unless other percentages can be justified:

- Lower: The responsible entity failed to (produce, distribute, maintain, etc.) 5% or less (of the required performance)
- Moderate: The responsible entity failed to (produce, distribute, maintain, etc.) more than 5% but less than (or equal to) 10% (of the required performance)
- High: The responsible entity failed to (produce, distribute, maintain, etc.) more than 10% up to (and including) 15% (of the required performance)
- Severe: The responsible entity failed to (produce, distribute, maintain, etc.) more than 15% of the required performance

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
EOP-003 R3.	The responsible entity did not coordinate load shedding plans, as directed by the requirement, affecting 5% or less of its required entities.	The responsible entity did not coordinate load shedding plans, as directed by the requirement, affecting more than 5% up to (and including) 10% of its required entities.	The responsible entity did not coordinate load shedding plans, as directed by the requirement, affecting more than 10%, up to (and including) 15% or less, of its required entities.	The responsible entity did not coordinate load shedding plans, as directed by the requirement, affecting more than 15% of its required entities.

Increments for Tardiness: Where there is a requirement with timing as an element that includes the number of days for delivering a product, identify a reasonable delay in delivering that product that would have only a minor impact on achieving the intent of the requirement and use that as the starting point for the Lower VSL. To develop the Moderate, High, and Severe VSLs, 10-day increments are recommended.

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
PRC-016 R3.	The responsible entity provided documentation of its SPS Misoperation analyses and the corrective action plans more than 90 calendar days but less than or equal to 120 calendar days following a request from its Regional Reliability Organization or NERC.	The responsible entity provided documentation of its SPS Misoperation analyses and the corrective action plans more than 120 calendar days but less than or equal to 130 calendar days following a request from its Regional Reliability Organization or NERC.	The responsible entity provided documentation of its SPS Misoperation analyses and the corrective action plans more than 130 calendar days but less than or equal to 140 calendar days following a request from its Regional Reliability Organization or NERC.	The responsible entity provided documentation of its SPS Misoperation analyses and the corrective action plans more than 140 calendar days following a request from its Regional Reliability Organization or NERC.

Keep VSLs Size-Neutral: When developing VSLs based on percentages or numbers, ensure that the developed VSLs are “size neutral.” In some instances, applying a percentage to an entity with a small size may result in grading a violation higher or lower than might be intended. Similarly, applying a fixed number to an entity with a large size may result in a determination of violation that is higher or lower than might have been intended. In such cases, establish VSLs that categorize noncompliant performance by referencing either a percentage of noncompliant performance or a fixed number of noncompliant items.

R#	Lower VSL	Moderate VSL	High VSL	Severe VSL
FAC-003 R1.3.	<p>For responsible entities directly involving fewer than 20 persons in the design and implementation of the TVMP, one of those persons did not hold appropriate qualifications and training to perform their duties.</p> <p>For responsible entities directly involving 20 or more persons in the design and implementation of the TVMP, 5% or less of those persons did not hold appropriate qualifications and training to perform their duties.</p>	<p>For responsible entities directly involving fewer than 20 persons in the design and implementation of the TVMP, two of those persons did not hold appropriate qualifications and training to perform their duties.</p> <p>For responsible entities directly involving 20 or more persons in the design and implementation of the TVMP, more than 5% up to (and including) 10% of those persons did not hold appropriate qualifications and training to perform their duties.</p>	<p>For responsible entities directly involving fewer than 20 persons in the design and implementation of the TVMP, three of those persons did not hold appropriate qualifications and training to perform their duties.</p> <p>For responsible entities directly involving 20 or more persons in the design and implementation of the TVMP, more than 10% up to (and including) 15% of those persons did not hold appropriate qualifications and training to perform their duties.</p>	<p>For responsible entities directly involving fewer than 20 persons in the design and implementation of the TVMP, more than three of those persons did not hold appropriate qualifications and training to perform their duties.</p> <p>For responsible entities directly involving 20 or more persons in the design and implementation of the TVMP, more than 15% of those persons did not hold appropriate qualifications and training to perform their duties.</p>
MOD-001 R7	<p>The Transmission Service Provider determined ATC or AFC using assumptions more limiting than those used in planning of operations for the studied time period for 5% or less of all ATC Paths or Flowgates or 1 ATC Path or Flowgate (whichever is greater).</p>	<p>The Transmission Service Provider determined ATC or AFC using assumptions more limiting than those used in planning of operations for the studied time period for more than 5% but less than (or equal to) 10% of all ATC Paths or Flowgates but not more than 2 ATC Paths or Flowgates (whichever is greater).</p>	<p>The Transmission Service Provider determined ATC or AFC using assumptions more limiting than those used in planning of operations for the studied time period for more than 10% but less than (ore equal to) 15% of all ATC Paths or Flowgates or 3 ATC Paths or Flowgates (whichever is greater).</p>	<p>The Transmission Service Provider determined ATC or AFC using assumptions more limiting than those used in planning of operations for the studied time period for more than 15% of all ATC Paths or Flowgates or more than 3 ATC Paths or Flowgates (whichever is greater).</p>

FERC's Guidelines:

In its June 19, 2008 [*Order on Violation Severity Levels*](#), FERC indicated it would use the following four guidelines for determining whether to approve VSLs:

Guideline 1: Violation Severity Level Assignments Should Not Have the Unintended Consequence of Lowering the Current Level of Compliance

Compare the VSLs to any prior Levels of Non-compliance and avoid significant changes that may encourage a lower level of compliance than was required when Levels of Non-compliance were used.

(If a team is revising a requirement that has VSLs, then in support of this guideline, the team should compare any new set of VSLs against VSLs already established for the original requirement.)

Guideline 2: Violation Severity Level Assignments Should Ensure Uniformity and Consistency in the Determination of Penalties

All violations of “binary” type requirements must be consistently assigned the same VSL, and using a “Severe” VSL is an acceptable approach.

Do not use ambiguous terms such as “minor” and “significant” to describe noncompliant performance.

(Most requirements are not binary and can have multiple degrees of noncompliant performance. Any instance of noncompliance with a binary requirement must be a Severe VSL.)

Guideline 3: Violation Severity Level Assignment Should Be Consistent with the Corresponding Requirement

VSLs should not expand on, nor detract from, what is required in the requirement.

(Avoid adding using any new terminology in a VSL that doesn't already exist in the associated requirement.)

Guideline 4: Violation Severity Level Assignment Should Be Based on A Single Violation, Not on A Cumulative Number of Violations

. . . unless otherwise stated in the requirement, each instance of non-compliance with a requirement is a separate violation. Section 4 of the Sanction Guidelines states that assessing penalties on a per violation per day basis is the “default” for penalty calculations.

(This does not mean that a single violation needs to be binary. In the VSL Order, FERC provided examples showing how you can set VSLs based on a single violation and also have ‘degrees’ of noncompliant performance. This is accomplished by categorizing partial compliance with the single task. What the team cannot do is use different VSLs for multiple instances of noncompliance with the same task.)