

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Self-Logging of Minimal Risk Issues

Program Overview

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RELIABILITY | ACCOUNTABILITY



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Self-Logging of Minimal Risk Issues

Introduction

The “end state” for the enforcement program involves reserving the enforcement process for those issues that pose a serious or substantial risk to the reliability of the bulk power system (BPS) and, as to other issues, allowing NERC and the Regional Entities to exercise appropriate discretion whether to initiate a formal enforcement action.

New processes implemented since 2013 allow the ERO Enterprise to focus on higher risks to the reliability of the BPS and provide clear signals to registered entities about identified areas of concern and risk prioritization, while maintaining the ERO Enterprise’s existing visibility into potential noncompliance issues. These processes leverage existing internal practices at registered entities relating to self-monitoring, identification, assessment, and correction of noncompliance with Reliability Standards. By appropriately valuing and rewarding such efforts, the ERO Enterprise encourages the enhancement of internal controls and self-identification of noncompliance throughout the industry.

Exercising Enforcement Discretion

NERC and the Regional Entities have piloted the use of enforcement discretion through a disposition track called a “compliance exception.” A compliance exception is essentially an evolution of the Find, Fix, Track and Report (FFT) program to resolve minimal risk noncompliance through a streamlined processing track. However, unlike the FFT, noncompliance resolved as a compliance exception is not subject to a formal enforcement action. Compliance exceptions are tracked by the Regional Entity and a summary is submitted to NERC and FERC for oversight. Additional information regarding compliance exceptions may be found in the Compliance Exception Overview, October 1, 2014 (available at <http://www.nerc.com/pa/comp/Pages/Reliability-Assurance-Initiative.aspx>).

There are two ways that a noncompliance can qualify for compliance exception treatment. One is on a case-by-case basis; an individual issue is deemed to have posed a minimal risk to the reliability of the BPS and does not warrant a penalty. This discretionary treatment is available for any qualified minimal risk issue, regardless of the registered entity or discovery method. The resolution of the noncompliance, including whether it may be resolved as a compliance exception, is based on a review of specific facts and circumstances.

Noncompliance that is self-logged, however, is presumed to be appropriate for disposition as a compliance exception. This approach is limited to registered entities that have been designated as eligible for self-logging by the appropriate Regional Entity. To qualify for self-logging, a registered entity must demonstrate it has effective management practices that contribute to the reliability of the BPS, in particular, the ability to identify, assess, and correct instances of noncompliance with Reliability Standards. The properly mitigated minimal risk issues that the registered entity tracks on its log are presumed to be resolved as compliance exceptions.

The self-logging program (also known as the aggregation program) allows those registered entities that have demonstrated such effective management practices to keep track of minimal risk noncompliance (and their mitigation) on a log that is periodically reviewed by the Regional Entity.

This document describes the self-logging program, eligibility requirements, benefits, and ongoing oversight of the program.

Eligibility

Beginning in October 2013, NERC and certain Regional Entities began to allow specific registered entities to participate in a pilot program for Aggregation/Self-Logging of Minimal Risk Issues. Registered Entities selected for

inclusion in the pilots provided assurance of effective management practices and self-monitoring processes related to the NERC Reliability Standards.

Since May 2014, the number of entities participating in the program has gradually expanded to allow the ERO Enterprise to evaluate further the benefits of the program and to adjust related processes. The observations from the pilot program are included in the Benefits section below.

In determining eligibility, the Regional Entities consider whether a registered entity is capable of self-monitoring and identifying, assessing, and correcting minimal risk noncompliance on its own, as demonstrated by:¹

- The registered entity's history of initiative and recognition of compliance obligations;
- The registered entity's reliable and accurate self-reporting of noncompliance to the Regional Entities;
- The registered entity's history of mitigating its noncompliance in a timely and thorough manner;
- The quality, comprehensiveness, and execution of the registered entity's internal compliance program;
- The registered entity's cooperation with the Regional Entity during enforcement actions, compliance monitoring activities, and Regional Entity outreach; and
- The registered entity's performance during regional Compliance Audits.

The Internal Control Evaluation (ICE) methodology that is being developed as part of the ERO Enterprise's risk-based CMEP, if performed, would inform a Regional Entity's decision regarding participation in the self-logging program, but is not a prerequisite for participation. In fact, an internal controls evaluation may not always be appropriate given the inherent risk posed by a particular entity for a particular function. However, the Regional Entity may inquire as to the internal controls in place to self-monitor and then identify, assess, and correct issues for which the registered entity is allowed to log minimal risk noncompliance. This inquiry will be scaled in accordance with the risk posed by the registered entity.

Eligibility for the self-logging program is not an all-or-nothing proposition. Each registered entity may be given a set of individualized parameters for its participation in the program that reflects the risk posed by the registered entity and the strength and maturity of its practices in a given area. A registered entity may be eligible to self-log noncompliance with certain Reliability Standards and not others.

Registered entities may lose the ability to self-log for various reasons. A Regional Entity may remove a registered entity's ability to self-log minimal risk noncompliance for all or a subset of Reliability Standards if the registered entity has demonstrated deficiencies in identifying, assessing, or correcting noncompliance. Misrepresentation or repeated, avoidable inaccuracies in the log may also result in the loss of the registered entity's self-logging ability.

Participation in the self-logging program is voluntary. Registered entities may contact their Regional Entities regarding participation, but are not required to participate.

Program Operation

Registered Entities that are permitted to self-log must maintain a record of instances of noncompliance with specified NERC Reliability Standards that posed a minimal risk to the reliability of the BPS. Self-logging replaces the individual Self-Reports and accompanying formal Mitigation Plans for each such instance of noncompliance.

¹ This list is not intended to be exclusive.

On the log, the registered entity records a detailed description of the minimal risk issue that it has identified, the basis of its minimal risk assessment, and the actions it has taken to correct the issue, specifically the mitigating activities it has undertaken to address the issue and prevent reoccurrence. Because only minimal risk issues are eligible for inclusion on the log, the registered entity's processes in place to determine risk are key to its eligibility for self-logging. The log is currently kept in the form of a spreadsheet similar to that used for FFT issues. It is expected that, in the future, registered entities will be able to maintain their log electronically on the Regional Entity portal.

The registered entity submits its log for review by the Regional Entity every three months.² The Regional Entity must review the log to confirm that the registered entity has adequately identified and described the noncompliance, accurately assessed the risk, and appropriately corrected (i.e. mitigated) the noncompliance. The Regional Entity may submit any concerns, questions, or proposed revisions to the registered entity for consideration. Once the log is finalized, the log is submitted to NERC, and the minimal risk individual issues are processed as compliance exceptions. If compliance exception treatment is not appropriate for any individual instance of noncompliance recorded in the log, the matter may be resolved through any of the remaining available disposition tracks.

Noncompliance posing a moderate or greater risk to the reliability of the BPS, or issues which relate to certain specified categories, are ineligible. The specified categories relate to noncompliance associated with:

- loss of load;
- instability of the BPS;
- uncontrolled separation;
- cascading blackouts;
- vegetation contacts causing extended outages;
- systemic or significant performance failures; or
- intentional or willful acts/omissions and gross negligence or other misconduct.

In the event the Registered Entity identifies a noncompliance and determines that it poses more than a minimal risk or relates to one or more of the specified categories above, or if the registered entity is not certain of the level of risk posed by the noncompliance, the registered entity is encouraged to submit a Self-Report to its Regional Entity.

Following the Regional Entity's review, the Regional Entity submits the log to NERC.

NERC and Regional Entities will periodically evaluate the registered entity's participation in the program. If NERC or the Regional Entity determines that a registered entity is no longer eligible to participate in the self-logging program, or if the parameters of its participation should be adjusted, the Regional Entity will provide notice to the registered entity and NERC and an explanation of such determination.

Oversight and Visibility

The Regional Entities inform NERC upon granting or denying self-logging privileges to a registered entity. In addition, NERC will exercise oversight over the program to ensure it is being administered consistently and appropriately.

² The Regional Entity may adjust this period to six months based on its experience with the registered entity in the self-logging program.

Regional Entities should document the factors they analyzed when determining the eligibility of each registered entity to self-log. This documentation should include:

- Evaluation of the registered entity's compliance history;
- Consideration of the timing and quality of the registered entity's Self-Reports;
- Assurance of the registered entity's ability to assess the risk of noncompliance accurately;
- Examination of the registered entity's mitigation performance;
- Review of the registered entity's internal compliance program documents, including the date of the latest review;
- Determination of the registered entity's risk, including the results of an Inherent Risk Assessment, if applicable;
- Justification for the scope of Reliability Standards for which the registered entity is permitted to self-log; and
- A description of the Regional Entity's structure and process for reviewing requests to join the self-logging program, including the department(s) responsible for making eligibility decisions.

NERC will periodically review the Regional Entities' eligibility determinations. NERC may also request information on eligibility determinations outside of a regular periodic review based on questions about a registered entity's participation.

It is important to note that self-logging, and any resulting process evolutions, are not meant to eliminate oversight or visibility regarding issues posing a minimal risk to the reliability of the BPS. In fact, they will increase visibility. The pilot experience suggests that registered entities are more likely to record minimal risk issues on the log when those issues are presumed to be compliance exceptions. As noted above, noncompliance resolved as compliance exceptions is tracked for trending purposes and is shared with FERC.

Benefits of the Program

The ERO Enterprise to date has identified several benefits of self-logging. First, because the minimal risk issues enjoy the presumption of compliance exception treatment, the pilot experience has shown that logs increase visibility into noncompliance detected and corrected at the registered entity. This is because the registered entity is more likely to record them on its log than it was to self-report them. Logged items treated as compliance exceptions will not incur a financial penalty. Further, logged items treated as compliance exceptions are not part of a registered entity's violation history for purposes of aggravation of penalties.³ Given these incentives, registered entities have shown a greater inclination to identify potential noncompliance, including times when it may be uncertain about whether the identified issue is a noncompliance.

Second, the program fosters efficiency and reduces certain formal administrative processes associated with individual self-reports.

Third, because all minimal risk issues related to a particular area and the mitigation associated with them are contained on the log, the log is an ideal forum for trend-spotting. The pilot experience has shown that the log review and discussion may trigger productive dialogue between the Regional Entity and the registered entity regarding expanding mitigating activities to prevent broader issues in the future.

Fourth, because the registered entity must do its own risk assessment in order to determine whether the noncompliance qualifies for self-logging, and because that risk assessment must be supported by rationale

³ A compliance exception is part of a registered entity's compliance history only to the extent that it serves to inform the ERO Enterprise of potential risk.

contained within the log, Regional Entities see more analysis of risk on the registered entity's part when it comes to noncompliance with Reliability Standards. The efforts of the registered entities allow the Regional Entities to allocate more of their time and resources to issues posing a greater risk to the reliability of the BPS.

Finally, this is a valuable tool to reward good performance on the part of registered entity.