

**NERC**

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

# Reliability Assurance Initiative

Summary of Comments and Responses  
to the ERO Mitigation Plan and Self-  
Report User Guides

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**RELIABILITY | ACCOUNTABILITY**



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# Introduction

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## Background

NERC and the Regional Entities collaborated with a Registered Entity focus group to streamline enforcement activities under the Reliability Assurance Initiative (RAI). To provide greater transparency into the evaluation of risk associated with possible noncompliance and ensure appropriate remediation of such noncompliance, the ERO enterprise developed User Guides for Self Reports and Mitigation Plans. The draft User Guides were posted for industry comment in January 2014. Many helpful comments were received and have been incorporated into revised documents now available at:

[ERO Self-Report User Guide](#)

[ERO Mitigation Plan Guide](#)

In addition to revisions to the User Guides, NERC and the Regional Entities received general comments about the RAI, Regional Entity processes, and the User Guides. These comments are summarized below with the ERO response.

## Summary of comments related to RAI

Several commenters suggested redesigning the Self Report process under RAI. One Commenter expressed concern that the User Guides are focused on current processes and did not reflect changes under the RAI. One Commenter suggested allowing Registered Entities to maintain a log of minimal risk instances of noncompliance. Another Commenter suggested a more streamlined notification process whereby Regional Entities could request more information related to mitigation efforts through an iterative process.

## ERO Response to comments related to the Reliability Assurance Initiative

Under RAI, the envisioned "future state" provides an alternative to processing every individual instance of noncompliance through the formal enforcement process. In order to determine whether an instance of noncompliance requires an enforcement action or whether it can be resolved outside of the enforcement process, Regional Entities and NERC will need to understand the facts and circumstances surrounding the noncompliance, the steps taken to resolve the noncompliance, and the risk posed by the noncompliance. The User Guides provide assistance to Registered Entities in reporting instances of noncompliance and are intended to assist the Regional Entities and NERC in obtaining the information necessary to determine how an instance of noncompliance will be resolved.

System changes are underway to provide a means of collecting, monitoring and reporting lesser risk issues outside the formal enforcement process. The User Guides provide guidance on the information necessary for Regional Entities and NERC to support a determination to resolve an instance of noncompliance outside of an enforcement action.

In addition to providing a means of resolving instances of noncompliance outside of the enforcement process, the Regional Entities and NERC have identified a limited number of Registered Entities that are permitted to maintain a log of minimal risk issues and report them in an aggregate manner over a six month period. After evaluating the initial results, the Regional Entities and NERC have agreed to extend this practice and expand the Registered Entities participating in this "self-logging" initiative.

## **Summary of comments related to implementation of a single Compliance Data System**

Numerous commenters support the implementation of a single compliance data system and point to apparent inconsistencies in the information requested by the two systems currently in use across the ERO. One commenter noted that there should be distinct field for all required information with drop down boxes or auto populated fields, rather than the current systems where much of the desired information is provided in two large free form fields: (1) Detailed Description and Cause of Possible Violation and (2) Description of Mitigating Activities and Preventative Measure. Another commenter noted that the compliance data systems uniformly refer to "Violations" when "Possible Noncompliance" is the more appropriate term.

### **ERO Response to comments related to implementation of a single Compliance Data System**

While there are differences in the data fields, the information requested by the Regional Entities and NERC is the same. The current systems are substantially similar and require the same information to be submitted.

While auto population of certain fields is available, given the unique facts and circumstances surrounding instances of noncompliance, free text fields allow for greater flexibility in describing instances of noncompliance, risks associated with noncompliance, as well as corrective actions taken to address noncompliance.

Regional Entities and NERC recognize that the existing compliance data systems currently utilize dated terminology, such as "Violation" rather than "noncompliance." With the RAI efforts, system enhancements have been requested to allow for monitoring, tracking, and reporting instances of noncompliance outside the enforcement process. It is anticipated that terminology and data field captions will be modified accordingly. In the meantime, the User Guides reference the existing fields in each compliance data system.

## **Summary of comments related to timeliness/promptness of available information**

Many commenters were concerned that the information requested for a comprehensive Self-Report conflicted with the emphasis on timely submission of a Self-Report as a mitigating factor in enforcement determinations. One commenter explained that its standard practice is to prepare and submit the Self Report "as soon as possible" and perform a detailed root cause analysis and risk assessment and determine mitigation activities in the course of developing the mitigation plan. Other commenters were concerned that the User Guide does not include suggested timelines for submission of Self Reports.

### **ERO Response to comments related to timeliness/promptness of available information**

The Regional Entities and NERC understand that the desired information may not be available at the time the noncompliance is identified. The User Guide provides guidance on the type of information that will assist the Regional Entities and NERC in assessing an individual instance of noncompliance. There will be situations where comprehensive information is not available immediately. In those instances, the Registered Entity should provide as much relevant information as is available and indicate the actions being undertaken to determine additional relevant facts. Providing a description of planned actions and proposed dates for providing additional relevant information will assist the Regional Entities and NERC in resolving instances of noncompliance.

## **Summary of comments related to categories of risk**

Several commenters expressed appreciation for the efforts undertaken by NERC and the Regional Entities to distinguish between minimal, moderate, and serious and substantial risk categories, while at the same time suggesting more guidance be provided to assist Registered Entities in assessing risk.

### **ERO Response to comments related to categories of risk**

Assessing risk is a continuous process and distinguishing between minimal, moderate, and serious or substantial risks is an ongoing effort. The User Guides provide guidance in the assessment of risk and NERC and the Regions will continue to provide guidance on risk assessment through educational outreach to entities. Contact your Regional Entity if you have any specific questions.

### **Summary of comments related to “no risk” category**

A couple of comments were received advocating for the option of assigning a “no risk” category to certain instances of noncompliance. One commenter explained that providing a “no risk” option is appropriate in those instances where a Registered Entity may not have met compliance with a NERC Reliability Standard, but “did not pose a risk to the BES.”

### **ERO Response to comments related to “no risk” category**

For purposes of identifying the proper means of disposing of noncompliance, NERC and the Regional Entities use the categories of minimal, moderate, and serious or substantial risk. The Sanction Guidelines, in particular the discussion on Violation Risk Factors, provide additional guidance in this respect.

Violation Risk Factors are assigned to Reliability Standards Requirements as indicators of the expected risk or harm to the Bulk Power System posed by the violation of a Requirement by a typical or median Registered Entity that is required to comply. NERC or the Regional Entity may consider the specific circumstances of the violator to determine if the violation of the Requirement in question actually produced the degree of risk or harm anticipated by the VRF.

### **Summary of comments related to Mitigation Plan requirements**

One Commenter expressed concern that the submission of mitigating activities with a Self-Report would not satisfy the requirements of the Compliance Monitoring and Enforcement Program (CMEP).

### **ERO Response to comments related to Mitigation Plan requirements**

The CMEP allows NERC and the Regional Entities to accept a description of mitigating activities in lieu of a Mitigation Plan. CMEP § 6.1 requires the submission of a proposed Mitigation Plan OR a description of how the violation has been mitigated. CMEP § 1.1.13 defines “mitigating activities” as actions taken by a Registered Entity to correct and prevent recurrence of a noncompliance, whether or not the actions are embodied in a Mitigation Plan.