

July 16, 2015

VIA ELECTRONIC FILING

Jim Crone
Director, Energy Division
Manitoba Innovation, Energy and Mines
1200-155 Carlton Street
Winnipeg MB R3C 3H8

RE: *North American Electric Reliability Corporation*

Dear Mr. Crone:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation Regarding Implementation of Reliability Assurance Initiative. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Holly A. Hawkins

Holly A. Hawkins
*Associate General Counsel for the North
American Electric Reliability Corporation*

Enclosure

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. COORDINATED MANAGEMENT AND OVERSIGHT OF THE RISK-BASED CMEP . 2

 A. Risk-based CMEP Oversight Approach 2

 B. Compliance Assurance Oversight..... 4

 C. Compliance Enforcement Oversight..... 5

 D. Continued Training of the ERO Enterprise Staff..... 7

III. RISK-BASED CMEP MEASURES OF SUCCESS 9

 A. Development and Benchmarking of Objective Metrics to Support the Measures of
 Success for the Risk-based CMEP 9

 B. Success Factors and Related Metrics 10

 1. ERO Enterprise Staff Competency 10

 2. Information and Outreach..... 10

 3. Consistency..... 11

 4. Regulator Trust..... 11

 5. Balanced Transparency..... 12

 6. Metrics Identified 12

 7. Recognized Value..... 13

IV. SELF-LOGGING INTERNAL CONTROLS ASSESSMENT METHODOLOGY 13

V. STANDARDIZATION OF CONTENT AND REVIEW OF LOGS 15

VI. STATUS OF THE PROPOSED REVISIONS TO RULES OF PROCEDURE 18

I. INTRODUCTION

On November 3, 2014, NERC made an informational filing (“NERC Informational Filing”)⁴ to FERC describing the various processes and programs developed and deployed through the ERO Enterprise’s⁵ risk-based CMEP.⁶ Through the initiative, the ERO Enterprise identified and implemented changes to certain processes to enhance the effectiveness of compliance monitoring and enforcement. On February 19, 2015, FERC approved NERC’s implementation of the risk-based CMEP, and, among other things, directed NERC to submit a filing addressing certain items.

Specifically, FERC directed NERC to “provide details on: a) its oversight processes for the RAI program and b) how it intends to measure the success of the risk-based approach to compliance monitoring and enforcement, to include the types of data-driven metrics it will track as the RAI program develops.”⁷ FERC also conditioned approval of NERC’s RAI implementation on NERC requiring “some level of formal review of an entity’s internal controls before granting the flexibility to self-log instances of noncompliance.”⁸ FERC directed NERC to address, in its filing, “a methodology for assessing an entity’s internal controls and the circumstances under which an alternate methodology will be used in place of an [Internal

⁴ NERC *Informational Filing of NERC Regarding Implementation of the Reliability Assurance Initiative*, Docket No. RR15-2-000 (November 3, 2014).

⁵ The term “ERO Enterprise” refers to NERC and the eight Regional Entities. The eight Regional Entities are Florida Reliability Coordinating Council (“FRCC”), Midwest Reliability Organization (“MRO”), Northeast Power Coordinating Council (“NPCC”), ReliabilityFirst (“RF”), SERC Reliability Corporation (“SERC”), Southwest Power Pool Regional Entity (“SPP RE”), Texas Reliability Entity (“Texas RE”), and Western Electricity Coordinating Council (“WECC”).

⁶ NERC is submitting this Informational Filing on this date to this provincial governmental authority.

⁷ February 19 Order at P 32.

⁸ *Id.* at P 42.

Control Evaluation].”⁹ Finally, FERC directed NERC to address “the establishment of an appropriate level of standardization for the content and review of an entity’s compliance logs.”¹⁰

NERC addresses these topics in sections II through V, below.

II. COORDINATED MANAGEMENT AND OVERSIGHT OF THE RISK-BASED CMEP

A. Risk-based CMEP Oversight Approach

In its February 19 Order, FERC found NERC’s commitment to conduct Regional Entity reviews during the first quarter of 2015 appropriate to ensure that the program is implemented properly from the outset. However, FERC requested additional program details and directed NERC to include such specificity in its filing.¹¹ NERC has developed a robust and thorough approach to assess implementation of the risk-based CMEP across the ERO Enterprise as part of its oversight program, described below, and developed the measures associated with the success factors discussed in section IV. NERC has also worked with the NERC Compliance and Certification Committee (“CCC”) to develop criteria by which it would determine the effectiveness of each Regional Entity CMEP.¹²

The objectives outlined in the ERO Enterprise Strategic Plan also guide NERC’s oversight of the risk-based CMEP. In particular, in the 2015-2018 ERO Enterprise Strategic Plan,¹³ strategic goal 2 provides that the ERO Enterprise shall:¹⁴

⁹ *Id.*

¹⁰ *Id.* at P 43.

¹¹ *Id.* at P 32.

¹² In accordance with Section 402.1.2 of the NERC Rules of Procedure, the CCC is responsible for establishing criteria for NERC to use to annually evaluate the goals, tools, and procedures of each Regional Entity CMEP to determine the effectiveness of each Regional Entity CMEP.

¹³ ERO Enterprise Strategic Plan 2015-2018, as approved by the NERC Board in November 2014, *available at* http://www.nerc.com/AboutNERC/Documents/ERO_Enterprise_Strategic_Plan_2015–2018_Board%20Approved_November_2014.pdf.

Be a strong enforcement authority that is independent, without conflict of interest, objective, and fair, and promote a culture of reliability excellence through risk-informed compliance monitoring and enforcement. The ERO retains and refines its ability to use standards enforcement when warranted and imposes penalties and sanctions commensurate with risk.... The ERO Enterprise holds industry accountable for violations that create serious risk to the BES; resulting actions are timely and transparent to industry.

Ensuring the successful implementation of the risk-based CMEP is the priority of NERC's Compliance Assurance and Compliance Enforcement departments' oversight and coordinated management plans for 2015. As discussed more fully below, with respect to the oversight programs for each of the compliance monitoring and enforcement areas, NERC's oversight of the risk-based CMEP is well underway. NERC reports regularly on its progress.¹⁵ NERC's oversight of the risk-based CMEP processes is one aspect of the implementation of the ERO Enterprise Operating Model.¹⁶ The oversight program defines the goals and objectives of each area, the qualifications and training expected of staff implementing the program, related performance metrics, the types of monitoring activities, and mechanisms for providing feedback from oversight activities. The oversight approach to risk-based CMEP implementation includes the following concepts:

1. Reviewing processes and procedure documentation to assess consistency with risk-based CMEP design;

¹⁴ *Id.* at p. 4.

¹⁵ See Board of Trustees Compliance Committee Open Session Agenda Package, items 5 and 6, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf> and Board of Trustees Compliance Committee Open Session Agenda Package, items 3, 4, and 5, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%2011%20February%202015.pdf>. In addition, NERC expects to issue, by the end of 2015, a report assessing consistency of Regional Entity compliance monitoring practices and identifying areas for improvement. NERC also produces an annual ERO CMEP report, which in 2015 will include assessment of risk-based CMEP implementation. NERC will publish this report during the first quarter of 2016.

¹⁶ ERO Enterprise Operating Model, *available at* http://www.nerc.com/AboutNERC/keyplayers/Documents/ERO_Enterprise_Operating_Model_Feb2014.pdf.

2. Sampling the activities related to performance of specific components of the risk-based CMEP design for quality assurance; and
3. Providing feedback, training, and recommendations to Regional Entities for improvement.

B. Compliance Assurance Oversight

For Compliance Assurance, NERC is conducting oversight activities through a two-phased approach. The first phase of NERC's oversight activities began during the first quarter of 2015 and has continued into the second quarter. NERC designed this phase to establish conceptual consistency in the application of the ERO Enterprise's risk-based approach. NERC has completed its review of each Regional Entity's risk-based process documentation and compared the Regional Entities' basic concepts to the ERO Enterprise's guidance documents. This phase also involved a review of supporting regional process documents such as policies, procedures, narratives, and flowcharts describing the Regional Entity's execution and application of the design for the ERO Enterprise's risk-based CMEP.

As a part of phase one, NERC staff also completed onsite visits to six of the Regional Entities, during which NERC and Regional Entity staff reviewed procedures associated with Inherent Risk Assessments ("IRAs") and Internal Control Evaluations ("ICEs") and discussed examples of the application of such procedures. NERC scheduled the remaining two Regional Entity visits before the end of May 2015.

At the conclusion of the phase one visits, NERC provides feedback to each Regional Entity regarding the results of its review to identify, if any, differences or opportunities for increased consistency in regional processes compared to the risk-based CMEP design. The feedback includes actions the Regional Entity should implement to address such feedback, as well as best practices and improvement opportunities that the Regional Entities can use to both

enhance an individual Regional Entity's IRA and ICE activities and develop training for the ERO Enterprise as a whole.

In addition, NERC held regular and periodic discussions with the Regional Entities to follow up on the results of the visits, as procedures continue to mature and evolve. This initial phase, which is underway and expected to conclude during the second quarter of 2015, is designed to promote consistency in the application of the ERO Enterprise's risk-based processes as well as identify areas where alignment is required.

In phase two, NERC's coordinated management will include an evaluation of how risk-based compliance monitoring concepts are used, the determinations made when using these concepts, and the results of their practical application by the Regional Entities. Phase two of NERC's coordinated management will continue throughout the remainder of 2015 and into 2016 and will focus on samples of compliance monitoring work by each Regional Entity.

C. Compliance Enforcement Oversight

Since 2012, NERC has primarily performed its oversight of the Regional Entities' enforcement program through the review of the processes, supporting evidence, and other information provided by the Regional Entities during engagements focused on individual program areas throughout the year. NERC communicates the recommendations and findings to the Regional Entities to help the ERO Enterprise develop responsive strategies and solutions to potential issues and ensure consistent implementation of the CMEP. Such recommendations and findings also help identify priority areas for training of ERO Enterprise staff during the year. NERC oversight includes three main categories of activities: (i) those associated with data flow and calculation of metrics; (ii) the annual review and evaluation program; and (iii) the development of feedback, guidance, and training.

NERC regularly analyzes enforcement data to assist with monitoring of CMEP processes and to help identify trends that may affect the reliability of the bulk power system. NERC computes performance indices on a regular basis to track and report the performance of the Regional Entities and NERC in processing violations and mitigation.¹⁷ These metrics provide insight on the effectiveness of Regional Entity programs and the adequacy of Regional Entity and NERC resources. This filing includes a description of the metrics NERC uses to measure the success of the risk-based CMEP implementation in Section III (A)(1).

NERC also conducts reviews of specific enforcement-related processes throughout the year and provides feedback to the Regional Entities on areas and activities to enhance consistency and effectiveness of processes. In 2015, evaluations are focusing on the new processes under the risk-based CMEP including triage, self-logging, and Compliance Exceptions. On an annual basis, NERC also reviews dismissals and Find, Fix, Track and Report (“FFT”) dispositions. Other areas reviewed in the past include settlement agreements and mitigation processes.

Finally, NERC Enforcement provides feedback, guidance, and training to the Regional Entities. NERC Enforcement has regular calls with Regional Entity staff to provide feedback, discuss a broad range of issues, and coordinate ongoing enforcement activity. In addition, as explained in further detail below, NERC Enforcement will provide additional training in 2015 to Regional Entity staff and industry stakeholders on areas such as Compliance Exceptions and the

¹⁷ These results are also reported regularly to the public. See *e.g.*, Compliance Violation Statistics – First Quarter 2015, available at <http://www.nerc.com/pa/comp/CE/Compliance%20Violation%20Statistics/Compliance%20Violation%20Statistics%20-%20First%20Quarter%202015.pdf>, and Compliance Violation Statistics – Fourth Quarter 2014, available at <http://www.nerc.com/pa/comp/CE/Compliance%20Violation%20Statistics/Compliance%20Violation%20Statistics%20-%20Fourth%20Quarter%202014.pdf>.

self-logging program. NERC will develop this training based on early experience with implementing the programs, as well as observations from the various reviews and evaluations.

D. Continued Training of the ERO Enterprise Staff

As a part of its oversight processes, and to provide transparency for the risk-based CMEP, NERC has prioritized training for ERO Enterprise staff. During 2015, NERC staff, supported by Regional Entities, has continued to develop and provide comprehensive and ongoing education and training on the transformation of compliance monitoring and enforcement for ERO Enterprise staff. As part of phase one, in the last quarter of 2014 and first quarter of 2015, the training focused heavily on continuing education for implementing the IRA and ICE components of the risk-based CMEP to support successful implementation and consistency. Phase two will go into further depth with both IRA and ICE concepts, incorporating lessons learned and other examples obtained through actual application of IRA and ICE.

NERC and the Regional Entities are working to provide detail and input into necessary training materials (e.g., identifying those individuals who require training, identifying what topics the training should include, and identifying what detail the training needs to cover). In order to ensure consistency in training and approach, a core group of NERC-led presenters and trainers are overseeing the implementation of the training plan.

The ERO Enterprise is providing specific training and education for the design of the risk-based CMEP and its specific components, and is tailoring that training and education in each instance to the targeted audience:

1. ERO Enterprise staff responsible for conducting the IRA or ICE;
2. Compliance monitoring and compliance enforcement staff on the overall activities of the risk-based CMEP; and

3. Stakeholders for additional possible outreach and training, which the ERO Enterprise may develop based upon input from a stakeholder-focused advisory group.

The content of training during phase one focused on foundational elements such as the IRA and ICE Guides, real-life scenarios, and case studies. The target audience for phase one was those individuals conducting IRAs and ICEs, regional and NERC staff, and other stakeholders as appropriate. Phase one involved a shorter-term approach to address IRA and ICE content, focusing first on those regional staff that conduct IRAs and ICEs. This first phase also included foundational concepts using real-life scenarios and examples. The second phase will provide further depth and will incorporate lessons learned and other examples obtained throughout application of the IRA and ICE Guides and programs. For example, NERC and Regional Entity staff will participate in instructor-led training courses focused on assessing controls in the third quarter of 2015. As implementation progresses, NERC will assess which other components and topics need more or less training to support development of consistency among the ERO Enterprise and will adapt and modify training materials to address this input on an ongoing basis.

In addition, NERC and the Regional Entities have completed several exercises focused on implementation of the risk-based CMEP. For example, NERC and the Regional Entities engaged in tabletop exercises focused on assessing internal controls for small registered entities (i.e., entities serving a load of between 75 MW and 300 MW). These exercises provided ERO Enterprise staff a better understanding of how small entities identify internal controls in order to scale application of ICE. During these exercises, representatives from approximately five small entities presented their approaches to internal controls for specific NERC Reliability Standards and engaged in discussions with regional staff to support application of ICE to small entities.

During the second quarter of 2015 and beyond, NERC and the Regional Entities continue to plan and enhance the existing training and education program on risk-based CMEP activities. Further, ERO Enterprise staff is working toward a more formalized, systematic approach to the ERO Enterprise training and education program for risk-based compliance monitoring. This training and education program will be coordinated with the NERC Training Department and use existing software and tools, including the ERO Enterprise Learning Management System to develop training modules and support individualized records for training and education across the ERO Enterprise.¹⁸

III. RISK-BASED CMEP MEASURES OF SUCCESS

A. Development and Benchmarking of Objective Metrics to Support the Measures of Success for the Risk-based CMEP

In its February 19 Order, FERC directed NERC to provide details on “how it intends to measure the success of the risk-based approach to compliance monitoring and enforcement, to include the types of data-driven metrics it will track.”¹⁹ The ERO Enterprise has identified success factors and related metrics to assess the success of the implementation of the risk-based CMEP.²⁰

Over the course of 2015, NERC will collect information related to each measurement in order to determine the appropriate benchmarks and possible targets for future years. Each metric may support more than one of the success factors described below. None of the metrics

¹⁸ For additional information regarding the status of training and upcoming training opportunities, *see* the Board of Trustees Compliance Committee Open Session Agenda Package, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf>.

¹⁹ February 19 Order at P 32.

²⁰ *See* Board of Trustees Compliance Committee Open Session Agenda Package, item 3 at pp. 18-22, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%2011%20February%202015.pdf>.

described below, however, would replace the need for the type of qualitative evaluation that will be performed through the oversight processes referenced above.

B. Success Factors and Related Metrics

1. ERO Enterprise Staff Competency

Success Factor: ERO Enterprise staff performing key activities are trained and competent in their areas of responsibility, such as risk assessment, audit, internal controls evaluation, and enforcement, and regarded by registered entities as being well qualified in their roles.

In 2015, the ERO Enterprise will continue internal training of staff, including in-person and remote opportunities as discussed above. In addition, NERC will collect information on stakeholders' perceptions through the ERO Enterprise effectiveness survey.

NERC has measured achievement of this objective through several methods. First, NERC has tracked the percentage of identified ERO Enterprise staff receiving training in identified competency areas for risk-based compliance and enforcement activities.²¹ Moreover, review of the exit results from audit engagement surveys will help measure how an entity perceived auditor competency. Finally, benchmarking the effectiveness survey results for future comparison will show a trend.

2. Information and Outreach

Success factor: Registered entities have the information they need—through outreach, program transparency, and sharing of best practices—to prepare for engaging with the Regional Entities and NERC in the risk-based compliance and enforcement activities.

²¹ See the Board of Trustees Compliance Committee Open Session Agenda Package at pp. 23-28, available at <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf>.

The ERO Enterprise meets this objective partly through joint webinars and workshops.²² In addition, NERC and the Regional Entities will continue to provide support for various industry and trade events where best practices and other relevant information may be shared. NERC also plans to implement several improvements on its Compliance and Enforcement website to facilitate dissemination of information. Finally, the ERO Enterprise has continued to use weekly bulletins and monthly newsletters to communicate information and availability of resources.²³

3. Consistency

Success factor: The common tools, processes, and templates used by the Regional Entities for risk-based compliance and enforcement activities with registered entities are consistent on matters where consistency is important, and NERC has adequate oversight of that interface.

NERC ensures consistency through the oversight activities described previously. In addition, registered entities may report consistency-related concerns through the Regional Consistency Reporting Tool.²⁴ Issues reported through the tool are tracked and reviewed, and a response is provided to the public through the website.

4. Regulator Trust

Success factor: The ERO Enterprise has strengthened the trust of FERC and applicable Canadian government authorities in risk-based compliance and enforcement.

²² For example, during the fourth quarter of 2014 and the first quarter of 2015, the ERO Enterprise hosted a series of three outreach events. The three outreach events, occurring on November 6 and 20, 2014, and March 5, 2015, included ERO Enterprise staff and industry panelists presenting on risk-based topics. The outreach events provided continued communication and education to industry stakeholders on the ERO Enterprise's transformation to risk-based compliance monitoring and enforcement activities. During these events, NERC, Regional Entities, and panels of industry stakeholders delivered presentation. For each event, two options were available for attendance, either in-person or dial-into a listen-only webinar.

²³ For example, Weekly Standards & Compliance Bulletin (May 11-17, 2015), available at http://www.nerc.com/pa/Stand/news/Standards/2015_05_11_StandardsCompliance_Bulletin.pdf, and NERC News (April 2015), available at <http://www.nerc.com/news/newsletters/Newsletters/NERCNews-2015-04.pdf>.

²⁴ Available at <http://www.nerc.com/AboutNERC/keyplayers/Pages/default.aspx>.

NERC continues to coordinate and collaborate with FERC and other Applicable Governmental Authorities at various levels, to ensure the proper implementation of risk-based processes and that such authorities have access to the necessary information to discharge their oversight responsibilities. This includes, for example, the coordination of certain process reviews with FERC staff, as in the case of the annual review of FFTs.

5. Balanced Transparency

Success factor: An appropriate level of transparency has been determined for various facets of risk-based compliance and enforcement, balancing efficiency and the confidentiality needs of a registered entity with the needs of industry as a whole to learn from others.

NERC has implemented an elevated level of transparency by posting Compliance Exceptions as required by FERC,²⁵ as well as through regular public reports on a variety of implementation-related matters.²⁶

6. Metrics Identified

Success factor: Metrics are identified for key expected results from risk-based compliance and enforcement and benchmarked for 2015.

Beginning with the first quarter of 2015, NERC has reported on the results of a number of metrics which reflect the growth and expansion of the risk-based compliance monitoring and enforcement processes. These metrics refer to the use of the Compliance Exception and self-logging programs and completion of IRAs and ICEs.²⁷ These metrics are relevant at this time to

²⁵ NERC currently posts searchable public consolidated Compliance Exception spreadsheets on its Enforcement and Mitigation website available at <http://www.nerc.com/pa/comp/CE/Pages/Enforcement-and-Mitigation.aspx>.

²⁶ See Board of Trustees Compliance Committee Open Session Agenda Package, item 5 at pp. 23-28, available at <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf>.

²⁷ See Board of Trustees Compliance Committee Open Session Agenda Package, item 6 at pp. 21-30, available at <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf>.

track the pace of implementation of the program. During 2015, the ERO Enterprise will continue to work to develop any necessary additional metrics that correlate the implementation of the risk-based processes with the reliability of the bulk power system. NERC also assesses all Category 3 and above events to identify gaps in Reliability Standards and compliance monitoring as part of an ERO Enterprise metric related to assurance effectiveness.²⁸

7. Recognized Value

Success factor: The value of risk-based compliance and enforcement of registered entities is of demonstrable value to the consuming public and can be clearly and publicly articulated.

NERC will measure this value through benchmarking of the effectiveness survey results for future comparison.

IV. SELF-LOGGING INTERNAL CONTROLS ASSESSMENT METHODOLOGY

In its February 19 Order, FERC found it “unreasonable to grant the flexibility inherent in self-logging without some level of formal review of an entity’s internal controls”²⁹ and directed NERC address its “methodology for assessing an entity’s internal controls and the circumstances under which an alternate methodology will be used in place of an ICE.”³⁰

As a result, NERC and the Regional Entities developed the methodology included in the attached program document, Attachment A, which describes how Regional Entities will review those internal controls associated with a registered entity’s ability to self-assess. While the

²⁸ See 2015 Enterprise and Corporate Metrics, Metric 2, *available at* http://www.nerc.com/AboutNERC/Documents/2015_ERO_Enterprise_and_Corporate_Metrics_Board_Approved_November_2014.pdf.

²⁹ See February 19 Order at P 41.

³⁰ *Id.* at P 42.

original program document³¹ for self-logging contemplated the possibility of a review of a registered entity's internal controls in connection with the evaluation of a registered entity's eligibility for the program, the attached document makes it an explicit requirement in accordance with the FERC directive.³²

Through the self-logging program, the ERO Enterprise seeks to encourage registered entities to detect, accurately assess the risk of, and adequately mitigate minimal risk noncompliance with the Reliability Standards. In evaluating whether a registered entity is eligible for the program, therefore, a Regional Entity will review those internal controls the registered entity has in place to self-assess and address its noncompliance. In this sense, the evaluation of eligibility for self-logging is distinct from an ICE conducted for the purposes of tailoring the specific monitoring activities of a Compliance Enforcement Authority for a particular registered entity.

An ICE is conducted to review controls associated with specific risks posed by a registered entity (and identified through an IRA) to the reliability of the bulk power system. The self-logging evaluation, on the other hand, seeks to identify those entities that are capable of conducting regular self-assessment and does not affect decisions on how the Regional Entity regularly monitors the registered entity or the scope of such monitoring activities. In sum, an ICE is part of the compliance monitoring framework, evaluating controls related to the compliance with certain Reliability Standards requirements identified in the course of an IRA. The self-logging review, on the other hand, focuses on the controls and processes the registered

³¹ Self-Logging of Minimal Risk Issues: Program Overview (Oct. 1, 2014), *available at* <http://www.nerc.com/pa/comp/Reliability%20Assurance%20Initiative/Self-logging%20of%20Minimal%20Risk%20Issues%20Program%20Overview.pdf>.

³² *Supra* n. 31.

entity has in place for handling a failure to comply with any Reliability Standard. In addition, this formal review should be available any time a registered entity seeks admission to or is otherwise identified as a candidate for the Self-Logging Program, which more than likely will be outside of a regular compliance monitoring engagement. Nevertheless, a self-logging evaluation may be performed at the same time, and in the context of an ICE, provided that the Regional Entity performs the evaluation in accordance with the requirements in Attachment A.

As described more fully in Attachment A, a Regional Entity considers how the registered entity has implemented its self-assessment controls in conjunction with specific factors.³³ Regional Entities may obtain this information in a variety of ways, and then scale the depth of the review based on the registered entity's size and risk profile. The complete methodology that each Regional Entity will follow is included as Attachment A to this filing.

V. STANDARDIZATION OF CONTENT AND REVIEW OF LOGS

FERC stated in its February 19 Order that “it is worthwhile to have some level of standardization of the content and review of an entity's compliance logs that would allow for consistency and ease of compilation.”³⁴ FERC went on to recognize that this standardization should not take away the use of flexibility or accounting for the differences between registered

³³ In determining eligibility, the Regional Entities consider whether a registered entity is capable of self-identifying and mitigating minimal risk noncompliance on its own, as demonstrated by, among other things: (i) the registered entity's history of initiative and recognition of compliance obligations; (ii) the registered entity's reliable and accurate self-reporting of noncompliance to the Regional Entities; (iii) the registered entity's history of mitigating its noncompliance in a timely and thorough manner; (iv) the quality, comprehensiveness, and execution of the registered entity's internal compliance program; (v) the registered entity's cooperation with the Regional Entity during enforcement actions, compliance monitoring activities, and Regional Entity outreach; and (vi) the registered entity's performance during regional Compliance Audits. NERC Informational Filing at p 56.

³⁴ February 19 Order at P 43.

entities' size and internal controls.³⁵ Attachment A clarifies the requirements associated with content and review of logs.

Self-logging is an alternative method of providing information regarding a noncompliance and its associated mitigation activities to the Regional Entity and, as a general matter, it does not provide any less information than what is contained in a typical Self-Report and corresponding Mitigation Plan. For each logged noncompliance, the registered entity must describe the facts surrounding the noncompliance and its discovery, a risk assessment, and a description of the activities the registered entity has undertaken or will undertake to mitigate the noncompliance (including prevention of recurrence).

During its review of the log, the Regional Entity has the opportunity to ask the same questions it would have asked in the context of a Self-Report and Mitigation Plan review. The primary difference is that, at the time of the Regional Entity review, the registered entity can know that, if all information submitted is accurate, the mitigation appropriate, and risk of the noncompliance is indeed minimal, the Regional Entity will treat the noncompliance as a Compliance Exception. The appropriateness of Compliance Exception treatment, in each case, is based on an assessment of minimal risk to the reliability of the bulk power system.

Upon receipt of the logged noncompliance in a given quarter, the Regional Entity must review each noncompliance on the self-log. This review will determine whether: (i) the logged noncompliance is sufficiently described; (ii) the minimal risk assessment is justified and reasonable; and (iii) the mitigation activities for the noncompliance are appropriate and adequate. Reviewing self-logged noncompliance together on a periodic basis provides efficiency gains at

³⁵ *Id.*

both the registered entity and Regional Entity, and may be more conducive to trend-spotting than separate Self-Reports and Mitigation Plans.

If the Regional Entity determines that it needs additional information to understand the facts or evaluate the registered entity's risk assessment, the Regional Entity will request that the registered entity provide that information within the self-log entry. If the Regional Entity determines that the mitigation activity undertaken by the registered entity is insufficient, the Regional Entity will request that the registered entity undertake additional mitigation activity to address the self-logged noncompliance and record that additional activity on the self-log.

After the Regional Entity is satisfied that the registered entity sufficiently described a noncompliance, reasonably and justifiably assessed a minimal risk, and adequately mitigated the self-logged noncompliance, the Regional Entity will process it as a Compliance Exception. The Regional Entity will provide the same amount and type of information regarding the noncompliance to NERC for posting that it would provide for a Compliance Exception identified by other means.³⁶

If the Regional Entity concludes that any of the registered entity's logged instances of noncompliance are insufficient due to unclear or missing information, unsupported minimal risk determinations, or inadequate mitigation (e.g., recurring instances of noncompliance stemming from the same or substantially similar root cause), the Regional Entity may, at its discretion:

1. Work with the registered entity to correct the unsatisfactory log entries;
2. Process the instance of noncompliance through an alternate disposition method; or

³⁶ In response to P 39 of the February 19 Order, NERC has been publicly posting Compliance Exceptions since February 26, 2015 on its Enforcement and Mitigation website *available at* <http://www.nerc.com/pa/comp/CE/Pages/Enforcement-and-Mitigation.aspx>.

3. Modify or revoke Self-Logging, depending on the facts and circumstances of the insufficient log.

VI. STATUS OF THE PROPOSED REVISIONS TO RULES OF PROCEDURE

In its February 19 Order, FERC stated that, while it supported the purpose of the risk-based CMEP, “NERC must include fundamental RAI concepts and elements in the NERC Rules of Procedure.”³⁷ NERC is submitting these revisions to the Rules of Procedure this day in a separate filing.

Respectfully submitted,

/s/ Sonia Mendonca

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*Counsel for the North American Electric
Reliability Corporation*

Date: July 16, 2015

³⁷ February 19 Order at P 29.

Attachment A

ERO Enterprise Self-Logging Program

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

ERO Enterprise Self- Logging Program

May 20, 2015

RELIABILITY | ACCOUNTABILITY



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Introduction

This document provides a description of the ERO Enterprise Self-Logging Program. Registered entities found by the Compliance Enforcement Authority to be eligible, after a formal review of internal controls, pursuant to procedures adopted by NERC and the Regional Entities and provided to Applicable Governmental Authorities, may be granted approval by the Compliance Enforcement Authority to log noncompliance for subsequent review in lieu of submitting a Self-Report. The log shall be limited to noncompliance posing a minimal risk to the reliability of the bulk power system unless otherwise authorized by an Applicable Governmental Authority. Approved registered entities shall maintain a log with a detailed description of the noncompliance, the risk assessment, and the mitigating activities completed or to be completed. There is a rebuttable presumption that minimal risk noncompliance logged in this manner will be resolved as a Compliance Exception. The Compliance Enforcement Authority will periodically review the logs and will make the logs available for review, upon request, by NERC and Applicable Governmental Authorities.

The instant document covers the following aspects of the program:

- Availability of information associated with requesting an evaluation;
- Methodology to evaluate eligibility;
- Communications regarding determination of eligibility;
- Processing of logs;
- Review and evaluation of logs;
- Maintenance of records;
- Verification of mitigation.

This document replaces the October 1, 2014 *Self-Logging of Minimal Risk Issues Program Overview*.

Revision History

Version	Date	Notes
1.0	May 20, 2015	Original version.

ERO Enterprise Self-Logging Program

I. Requesting Evaluation of Eligibility for the Self-Logging Program

Each Regional Entity should include on its website information indicating how a registered entity can request evaluation of eligibility for the self-logging program. This information should include, at a minimum, a centralized email address or other contact information for the responsible individual or department at the Regional Entity.

II. Regional Entity Review of the Registered Entity's Processes

The Regional Entity will determine the registered entity's eligibility for self-logging through a formal evaluation of the registered entity's controls associated with the registered entity's ability to identify, assess, and correct noncompliance.

The following is the methodology each Regional Entity will use to conduct this evaluation. The Regional Entity will document the evaluation.

A. Methodology to Evaluate Processes to Identify Noncompliance

1. Has the registered entity demonstrated that it has effective processes in place for identifying possible noncompliance with Reliability Standards?
 - Process(es) for identifying and communicating possible noncompliance with Reliability Standards.
 - Process(es) for investigating the facts surrounding an identified possible noncompliance.
 - Process(es) if the registered entity determines facts do not amount to noncompliance (e.g., follow-up, if any, for near misses).

B. Methodology to Evaluate Processes to Assess Noncompliance

1. Based upon past performance, how thoroughly does the registered entity investigate the facts surrounding an identified possible noncompliance?
2. How accurately has the registered entity assessed the risk to reliability posed by noncompliance?
 - Process(es) for assessing risk to reliability posed by a particular noncompliance.
 - Process(es) for communicating reliability risk of possible noncompliance to individuals affected by the possible noncompliance.
3. Describe how the registered entity's assessment of risk to reliability impacts its response to the noncompliance.

C. Methodology to Evaluate Processes to Correct Noncompliance

1. Has the registered entity effectively identified the cause(s)/root cause(s) of past noncompliance?
 - Process(es) for identifying root cause(s) of possible noncompliance (including any process for communicating root cause(s) to individuals affected by the possible noncompliance and/or process for trend-spotting possible noncompliance with similar causes).
2. Has the registered entity provided timely and thorough communications to both the employees responsible for mitigation and to the Regional Entity?
3. Was registered entity senior management appropriately involved in the evaluation and correction of noncompliance?

4. How does the registered entity create and maintain a feedback loop to review and correct deficiencies in processes and procedures that have led to noncompliance?
5. How has the registered entity demonstrated that it has effective processes in place for addressing/mitigating identified causes of noncompliance (both cause of discrete noncompliance and prevention of recurrence)?
6. Does the registered entity assess the effectiveness of its mitigation activities?

To satisfy the evaluation embodied in these questions and become eligible for self-logging, a registered entity must demonstrate that it has sufficiently institutionalized processes in place to identify, categorize, prioritize, and mitigate operational risks to reliability. It also must have sufficient internal processes to perform corrective and preventative actions. The Regional Entity should assess whether these internal processes have been properly designed and implemented. The Regional Entity should obtain sufficient, appropriate evidence to support its assessment about the effectiveness of those processes. The Regional Entity may obtain an understanding of internal processes through inquiries, observations, inspection of documents and records, or review of other information already available to the Regional Entity. The nature and extent of the Regional Entity's review may vary according to the inherent risk of the registered entity, known or potential process deficiencies, and the Regional Entity's knowledge of the internal compliance program obtained through prior compliance monitoring and enforcement activities with the registered entity. The Regional Entity, as much as possible, should use information already in its possession to evaluate a registered entity's eligibility for self-logging.¹

As part of the Regional Entity's assessment of the effectiveness of a registered entity's internal processes, the Regional Entity may determine that it is appropriate to use the work of the internal compliance audit group, or external third parties hired by the registered entity, to assess internal compliance. Internal compliance auditing is an important part of overall governance, risk, compliance accountability, and internal controls. A key role of many internal compliance auditing organizations is to provide assurance that internal controls are in place to mitigate risks and achieve program goals and objectives related to compliance with Reliability Standards.

III. Communication of Eligibility Determination

The registered entity is responsible for providing the Regional Entity with requested information necessary to allow for the evaluation described above. After receiving all of the necessary information, the Regional Entity will notify the registered entity that the eligibility evaluation will begin. In most cases, the Regional Entity should complete the eligibility evaluation within 90 days. Following completion of the eligibility evaluation, the Regional Entity will issue a written notice to the registered entity regarding: 1) whether the registered entity qualifies for Self-Logging; 2) the basis for the Regional Entity's decision, including an explanation of factors affecting its determination; and 3) the Reliability Standard requirements for which the registered entity may self-log.

The Regional Entity will notify NERC on a monthly basis regarding new activity in the administration of the Self-Logging Program in its region. The notification should include new entrants in the Self-Logging Program, registered entities that were determined not to be eligible for the Self-Logging Program, and any modifications to the Self-Logging eligibility of existing participants in the Self-Logging Program. The Regional Entity may notify NERC by copying NERC Enforcement staff on the notices to the registered entities.

¹ For instance, the Regional Entity will consider, among other things: (i) the registered entity's history of initiative and recognition of compliance obligations; (ii) the registered entity's reliable and accurate self-reporting of noncompliance to the Regional Entities; (iii) the registered entity's history of mitigating its noncompliance in a timely and thorough manner; (iv) the quality, comprehensiveness, and execution of the registered entity's internal compliance program; (v) the registered entity's cooperation with the Regional Entity during enforcement actions, compliance monitoring activities, and Regional Entity outreach; and (vi) the registered entity's performance during regional Compliance Audits.

IV. Process for Self-Logging

The registered entity will maintain a Self-Logging spreadsheet for eligible minimal risk instances of noncompliance. If the registered entity has qualified for Self-Logging for both Operations and Planning (“O&P”) and Critical Infrastructure Protection (“CIP”) Reliability Standards, the Regional Entity may have the registered entity keep separate logs for the O&P and CIP Standards. The registered entity submits its logs to the Regional Entity according to the schedule established by the Regional Entity—at least once every three months when the registered entity begins self-logging and which could be extended to six months at the determination of the Regional Entity.

Only instances of noncompliance that pose a minimal risk to the reliability of the bulk power system are appropriate candidates for the log. The registered entity’s risk determination must consider, when applicable:

1. The timeliness of detection;
2. The method of detection (e.g., whether detection is the result of effective execution of internal controls);
3. Actions or processes in place during the instance of noncompliance that mitigated the risk or acted as a meaningful correction to the instance of noncompliance;
4. The timing and level of efforts undertaken, or to be undertaken, to mitigate the noncompliance;
5. Whether there are additional potential instances of noncompliance related to or indicative of the same or similar root cause underlying the instance of noncompliance;
6. Whether the noncompliance is limited to an administrative or documentation error;
7. The size and interconnectedness of the particular registered entity;
8. The location or asset involved with the noncompliance; and
9. The occurrence and/or likelihood of occurrence of any harm to the bulk power system.

The Regional Entity will provide training or materials to the registered entity regarding risk assessment of noncompliance. Training or materials provided to the registered entity should incorporate the risk assessment guidance and principles of the ERO Enterprise Self-Report User Guide (as amended from time to time).

Instances of noncompliance that pose a moderate or a serious and substantial risk to reliability should not be included in the log. Registered entities are encouraged to self-report such issues promptly to the Regional Entity.

If the registered entity is not certain about the level of risk associated with a specific noncompliance, the registered entity should contact the Regional Entity to discuss the noncompliance and determine whether it is appropriate for logging as a minimal risk issue.

V. Regional Entity Evaluation of Logged Items

The Regional Entity will evaluate the log to determine if it clearly and adequately provides all required information (Name, NCR number, Standard and Requirement, Description of the Issue, Description of the Risk Assessment, and Description and Status of Mitigation Activities). The Regional Entity’s evaluation will include a determination of whether:

1. The logged noncompliance is sufficiently described;
2. The minimal risk determination is justified and reasonable; and
3. The mitigation activities for the noncompliance are appropriate and adequate.

The Regional Entity will evaluate the registered entity's risk assessment for each logged instance of noncompliance to ensure that there are no instances of noncompliance on the logs that pose a moderate or serious and substantial risk to reliability.

If the Regional Entity concludes that the registered entity's logged instances of noncompliance are sufficiently described, reasonably and justifiably assessed as minimal risk, and subject to adequate and appropriate mitigation, the Regional Entity will process the logged instances of noncompliance as compliance exceptions. The Regional Entity will notify the registered entity of the associated Tracking Identification number assigned to the logged instances of noncompliance.

If the Regional Entity concludes that any of the registered entity's logged instances of noncompliance are insufficient due to unclear or missing information, unsupported risk determinations, or inadequate mitigation (e.g., recurring instances of noncompliance stemming from the same or substantially similar root cause), the Regional Entity may, at its discretion, and as further discussed below:

1. Work with the registered entity to correct the unsatisfactory log entries, including, if necessary, asking for additional information or mitigation activities;
2. Process the instance of noncompliance through an alternate disposition method; or
3. Modify or revoke Self-Logging, depending on the facts and circumstances of the insufficient log.

Specifically, where there is evidence that the registered entity failed to make a good faith effort to accurately record or effectively mitigate a logged instance of noncompliance (e.g., if the registered entity knew or should have known that it mischaracterized a logged instance of noncompliance as posing a lesser risk in order to qualify it for Self-Logging; or if the registered entity knew or should have known that it implemented clearly inadequate mitigating activities that could not reasonably be expected to correct and/or prevent recurrence of the logged instance of noncompliance), the Regional Entity may revoke Self-Logging and process the logged instance(s) of noncompliance through a formal enforcement action. If the Regional Entity revokes or modifies the registered entity's Self-Logging eligibility, the Regional Entity will inform the registered entity of the basis for that decision.

VI. Maintaining Records of Logged Items

The registered entity will maintain evidence to support the details included in the description of the noncompliance, the minimal risk assessment of the noncompliance, and the completion of mitigation activities for each instance of noncompliance recorded on the log.

The registered entity shall maintain this evidence until the Regional Entity verifies completion of the mitigation activities, subject to the following qualification: If the Regional Entity has not verified the completion of the mitigation activities for 12 months from the later of the date the Regional Entity sent the Notice of Compliance Exception treatment or the date the registered entity completes the mitigation activities, the registered entity is no longer required to maintain the evidence.

VII. Regional Entity Verification of Mitigation Completion

The Regional Entity may request evidence related to the self-logged noncompliance upon review of the logged issue or at a later date.

The Regional Entity may sample the noncompliance to determine the issues for which it will verify completion of mitigation activities. For sampling of self-logged noncompliance, the Regional Entity will notify the registered entity and identify the logged noncompliance for which mitigation activity is being verified.

After this notification, the registered entity will submit evidence supporting mitigation activity completion to the Regional Entity. The evidence submitted by the registered entity will be reviewed by the Regional Entity. The

Regional Entity will maintain a record of the evidence reviewed to verify completion of mitigation activities. The Regional Entity will notify the registered entity upon verifying completion of mitigation activities.

If the Regional Entity has any issues with the evidence submitted by the registered entity, the Regional Entity will seek to resolve them with the registered entity. Where the verification reveals a pattern or practice of: 1) lack of mitigation activity completion; or 2) poor record keeping, the Regional Entity may modify or revoke the registered entity's Self-Logging eligibility. If the Regional Entity does so, it will inform the registered entity of the basis for that decision.