

Consideration of Comments on Re-ballot of Reliability Standards Development Procedure — Version 7

Summary Consideration:

The reballot of the proposed modifications to the Reliability Standards Development Procedure, Version 7 was conducted from July 27–August 14, 2009. The ballot achieved a quorum of 84.65% and a weighted approval of 74.79%. There were 40 comments submitted – several were submitted with affirmative ballots, and several were submitted by different balloters within the same entity. The comments were very similar to those submitted during the public comment period no changes were made based on these comments.

Most objections are related to the use of a “non-binding” poll to replace the existing balloting process which included VRFs and VSLs as part of the standard. The board solicited comments on its proposed modifications to the standards process, and after reviewing and considering stakeholder comments directed the Standards Committee to make the proposed changes. The board directed the Standards Committee to “implement” its proposed processes, not to seek additional alternatives.

Some commenters expressed a view that VRFs and/or VSLs are technical aspects of the standard and should not be separated from the associated requirements. VRFs and VSLs only exist to provide the Compliance Enforcement Authority with some guidance in setting a penalty or sanction for a violation of a requirement – if there were no penalties or sanctions, there would not be a need for either VRFs or VSLs. FERC’s Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states “Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard.” FERC’s Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states “The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard.” The Board directed the SC to implement these changes to reflect FERC’s position. In addition, ANSI does not consider any of the compliance elements to be part of the “standard.”

Some commenters suggested that the “Special Procedures” section of the manual isn’t clear and proposed modifications for improved clarity, but didn’t identify anything that is “incorrect.” This comment has been forwarded to the team working on the next set of revisions to the manual. The board directed the Standards Committee to “implement” its proposed processes, not to seek additional alternatives.

Additional comments proposed clarification of other sections of the manual that also would be improvements. The Standards Committee limited the changes in this document to those directed by the Board of Trustees in order to avoid confusion with other changes to the manual. The proposed changes will be considered by the Process Subcommittee as it works on the next version of the Reliability Standards Development Procedure.

Some commenters wanted more details about the administrative processes that are needed to support the “Special Procedures” section of the manual. These detailed procedures are not yet available, but the concerns identified will be submitted to NERC staff working on those procedures.

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Segment:	1
Organization:	American Transmission Company, LLC
Member:	Jason Shaver
Comment:	<p>Version 7 of the Reliability Standards Development Procedure (RSDP) contains for the following statement within the “Standards to support issues that are Confidential” (Special Procedure) section: “The draft standard will be distributed for comment, under strict confidentiality rules, only to those entities that will be expected to comply and who have identified individuals from their organizations that have signed confidentiality agreements with NERC.” We believe that this statement means that entities will be able to identify several individuals within their organization that will be able to review draft standards using this procedure. We are making this comment because in the “response to comments” document it was stated that an entity will only be able to identify a single individual. (Response to ATC’s comment) It’s our opinion that no entity has a single individual that has the technical knowledge to review the variety of topics that could come through the Special Procedure.</p> <p>Second observation: Emergency Action Process for Standards Responsive to Imminent issues that are Confidential (Emergency Confidential): Both the Special Procedure and the Emergency Confidential would be invoked by the Board to address a national security emergency situation. It’s our understanding that a standard developed using the Emergency Confidential procedure will not limit draft documents to only individuals who have previously signed confidentiality agreements with NERC. (i.e. the commenting process will be the same as the normal process) (Emergency Confidential does not contain an identical statement (above) as the Special Procedure) Lastly, there is not a similar footnote for Emergency Confidential as there is for Special Procedure. (Footnote number 8) Does this mean that NERC will distribute the rationale and justification for the standard during the commenting phase?</p>
Response:	<p>The language quoted regarding the “Standards to support issues that are Confidential” was taken, verbatim, from the board’s October 2008 meeting minutes – it was not modified by the Standards Committee. The response to ATC comments on the draft changes to the RSDP did imply that only a single individual from an entity would sign a confidentiality agreement and provide a response to comments. This is the exact response and was provided with guidance from staff members working on the administrative procedures to support the proposed process:</p> <p>d. If the proposed modifications to the Reliability Standards Development Procedure are approved, entities identified in the Compliance Registry will be asked to identify an individual who will then be asked to sign a confidentiality agreement as a prerequisite to participation in a comment period for a standard that is developed to address an emergency situation.</p> <p>The administrative process must support the language contained in the approved manual. We will share your concern observation with those who are working on the administrative procedures to support the new processes.</p> <p>The section of the manual titled, “Standards to Support Issues that are Confidential” on page 32 of the redline version of the RSDP V7 clearly states the following:</p>

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	<p>The draft standard will be distributed for comment, under strict confidentiality rules, only to those entities that will be expected to comply and who have identified individuals from their organizations that have signed confidentiality agreements with NERC.¹</p> <p>The bullet and associated footnote apply to all standards developed to support issues that are confidential – those that are developed with and without time constraints.</p>
Segment:	1
Organization:	City Utilities of Springfield, Missouri
Member:	Jeff Knottek
Comment:	City Utilities of Springfield, Missouri does not agree with removing the Violation Risk Factors (VRF) from the standards development process. The VRFs by definition are a reliability related part of the standard representing the impact a requirement has on the Bulk Electric System. Considering the complexity of the requirements, an appropriate determination of a VRF is dependent on the expert knowledge and experience of industry stakeholders.
Response:	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard."</p> <p>We agree that subject matter experts should participate in the development of VRFs – and the proposed process calls for the standard drafting team and NERC staff to work in coordination to develop a set of VRFs.</p>
Segment:	1; 3; 5; 6
Organization:	Entergy Corporation; Entergy Services, Inc.; Entergy Corporation; Entergy Services, Inc.
Member:	George R. Bartlett; Matt Wolf; Stanley M Jaskot; Terri F Benoit

¹ In this phase of the process, only the proposed standard will be distributed to those entities expected to comply, not the rationale and justification for the standard. Only the special drafting team members, who have the appropriate security credentials, will have access to this rationale and justification.

<p>Comment:</p>	<p>Entergy Comments Negative Vote with Comments Reliability Standards Development Procedure Manual Ballot Ending July 20, 2009 Entergy is balloting against the proposed changes that introduce “confidential” standards and/ or “confidential” procedures. We believe there is not a need for “confidential” standards in the electric utility industry. Additionally, if it is determined the industry does need “confidential” standards, NERC and especially the electric utility industry are not prepared to develop, approve, implement and maybe not comply with “confidential” standards or “confidential” emergency actions. We would ballot in favor of the draft if all aspects of “confidential” are deleted from this Manual, including the complete sections: Standards to Support Issues that are Confidential” and “Emergency Action Process for Standards Responsive to Imminent Issues that are Confidential”.</p> <p>“Confidential” Standards Not Needed We firmly believe “confidential” standards or procedures are not needed in the electric utility industry. Any industry needed confidentiality should be contained in the execution and information handling to meet the standard. NERC and Industry Not Prepared Entergy is very concerned about all the aspects and issues of "Confidential" contained in this draft RSDP.</p> <p>We are also very concerned about the significantly greater number of aspects and issues not contained in this document and not contained in the existing electric utility industry. If some of our concerns are being addressed in the electric industry then the penetration is not sufficient for us to approve this process at this time. The following is a short discussion of what the electric industry needs to be able to develop and implement "confidential" standards.</p> <p>Many of us are aware of the military and nuclear industries infrastructure and procedure requirements for confidential and clearances in those organizations. Similar infrastructure and procedure requirements must be developed and implemented for the electric power industry, before we start imposing finable, mandatory requirements.</p> <p>Existing infrastructure and procedures may be in place now, in some limited number of locations, however, only NERC and a few industry participants are aware of them.</p> <p>If the industry deems confidential standards need to be developed and implemented then we strongly suggest NERC and the electric utility industry develop that structure and infrastructure before imposing the process piecemeal. Some of the infrastructure requirements we envision are:</p> <ul style="list-style-type: none">• specification of what grade of clearance requirements are needed to be able to perform certain tasks• specification of what federal agency would grant that clearance• what level of clearance will be required by the developers, reviewers and approvers of the confidential standard• what level of clearance will be required by the trainers to implement the confidential standard• what level of clearance will be required by the individuals implementing the confidential standard• what level of clearance will be required by the compliance overseers of the confidential standard, both in a company and those auditing compliance• what requirements and procedures are needed implement the confidential standards, including physical and cyber security protection
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	<ul style="list-style-type: none"> • what level of clearance and compliance verification will be required of vendors to provide solutions to meet confidential standards • etc <p>Comments on this specific procedure as presented in this draft RSDP:</p> <ul style="list-style-type: none"> • our opinion is this draft process is a degradation of the NERC standards development process through its lack of openness and transparency • nomination to a SDT shall be limited to "just those candidates who have already been identified as having the appropriate security clearance, the required technical expertise and either have signed or are willing to sign a strict confidentiality agreement." • The restriction placed on potential industry participants of the standard development is enormous. Entergy will be required to have upwards of 10-15 individuals with pre-clearance, at some unknown level of clearance by some unknown agency, to encompass the entire range of possible technical expertise possibly needed on short notice, and have pre-signed confidentiality agreements. • potential abuse by the implementers of the proposed procedure being balloted is not monitored or corrected through any identified procedure • We believe all industry participants should be able to comment on and ballot on the final standard. It should not be limited to those with a clearance • Without further specification of what might be included in such standards, we can't help but wonder whether all electric utility participants will have adequate infrastructure in place to implement any and every "confidential" standard that may be issued.
<p>Response:</p>	<p>Agreed that if there is a national security emergency we need action, and as envisioned, that would be addressed through an alert, followed where needed by one or more new or revised requirements in a standard.</p> <p>The Standards Committee was directed to modify the RSDP in support of the board's actions.</p> <p>The specific level of clearance needed will be identified by the entity that possess the confidential information – in the United States this is most likely to be the Department of Homeland Security.</p> <p>We believe that the board outlined a process that balances the need to protection national security with the need to support the integrity of the standards process.</p> <p>NERC's Chief Security Officer is working with stakeholders to form a team of diverse industry subject matter experts prepared to help NERC interpret the reliability-related impact of confidential threat information. As envisioned, these experts will assist in writing alerts and if needed, some of the experts will be used to draft new or revised standards to help the industry protect itself against the associated threat.</p>
<p>Segment:</p>	<p>1; 4; 6</p>
<p>Organization:</p>	<p>FirstEnergy Energy Delivery; Ohio Edison Company; FirstEnergy Solutions;</p>

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Member:	Robert Martinko; Doug Hohlbaugh; Mark S Travaglianti
Comment:	<p>FirstEnergy supports the changes to the NERC Development Procedure V7 and is voting Affirmative. Furthermore, we offer the following suggested changes:</p> <ol style="list-style-type: none"> 1. Since the VRF are not considered part of the standard and already described under the section “Compliance Elements of a Standard”, we suggest they be removed from section “Performance Elements of a Reliability Standard”. This also removes repetitiveness in the procedure. 2. Under the “Compliance Elements of a Standard” and under the description of VSL, there is the following statement: “Each requirement must have at least one VSL. While it is preferable to have four VSLs for each requirement, some requirements do not have multiple “degrees” of noncompliant performance and may have only one, two, or three VSLs.” We suggest removing the text “While it is preferable to have four VSLs for each requirement”. 3. Regarding the following statement under the description of Step 10 of the Development Process, “Once the board has approved a reliability standard and the associated violation risk factors and violation severity levels, the board will direct NERC staff to file the standard and its associated compliance elements, to be filed with applicable governmental authorities in the United States, Canada, and Mexico for approval”: For consistency with language throughout the rest of the procedure, we suggest revising the first part of the statement as follows: “Once the board has adopted a reliability standard and approved the associated violation risk factors and violation severity levels...”. 4. Regarding the Process Diagram flowchart: a. The revisions show the addition of the text “Poll VRFs & VSLs” in the ballot step 9. The poll should have its own action block since, from the description of the VRF/VSL process proposed in this revision of the Development Procedure, the Poll may only be a “one-time” event and may not involve a recirculation. However, if the poll is always recirculated to stakeholders as is done with a ballot, then this should be more clear in this procedure. b. The phrase “Approval of VSL/VRF by BoT” should be added in the process diagram as a step which is parallel to step 10, “Adopt Standard”.
Response:	These are all good suggestions and we will ask the team that is working on the next set of modifications to the manual to adopt these suggestions.
Segment:	1
Organization:	Georgia Transmission Corporation
Member:	Harold Taylor, II
Comment:	GTC believes VRFs and VSLs should remain as a compliance element and part of the standard and standard development process. To be developed for each standard, by the standard drafting team, and balloted with the standard.

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<p>Response:</p>	<p>We appreciate your opinion. We were directed to modify the RSDP in support of the board's actions. The proposed process does include significant involvement of the drafting team and stakeholders. Stakeholders who are drafting team members will work, as they do today, with NERC staff in proposing VRFs that are posted for stakeholder comment. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs.</p>
<p>Segment:</p>	<p>1</p>
<p>Organization:</p>	<p>JEA</p>
<p>Member:</p>	<p>Ted E. Hobson</p>
<p>Comment:</p>	<p>While we feel that there are some good changes in this reworked Standards Development Process, we are voting no for the following reasons:</p> <ol style="list-style-type: none"> 1. We strongly believe that the Violation Risk Factors are technical in nature and an integral part of the standards/requirements and thus should be developed and approved by industry technical experts using the established ANSI accredited process. We do agree that the Violation Severity levels (VSL's) are appropriately part of the compliance process, and we support the new process developed for them. 2. We do not understand the process for the development of "Confidential" standards. We believe that the premise is flawed in that you can develop standards using this process, with that many people involved and keep the information truly confidential. It is more likely to result in excluding appropriate participation and result in poor implementation and compliance than to successfully avoid inappropriate dissemination of information. Further, the process is likely to be too slow to accommodate true "national emergencies". We believe the government needs to find an alternate way to address national emergencies, and that NERC is not the appropriate forum for this type of activity.
<p>Response:</p>	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard."</p> <p>The proposed process does call for the development and approval of VRFs and VSLs at the same time as the associated requirements.</p> <p>As envisioned, very few people would have, or need, access to the confidential background information. The standard will go out for comment to those entities that are expected to comply.</p>

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	<p>Agreed that if there is a national security emergency we need action, and as envisioned, that would be addressed through an alert, followed where needed by one or more new or revised requirements in a standard. NERC's Chief Security Officer is working with stakeholders to form a team of diverse industry subject matter experts prepared to help NERC interpret the reliability-related impact of confidential threat information. As envisioned, these experts will assist in writing alerts and if needed, some of the experts will be used to draft new or revised standards to help the industry protect itself against the associated threat.</p>
Segment:	1; 3
Organization:	Kansas City Power & Light Co.
Member:	Michael Gammon; Charles Locke;
Comment:	<p>Do not agree that the Violation Risk Factor (VRF) be removed from the standards development process as part of the role industry plays in the development of requirements. The VRF by definition is a reliability related part of the standards and requirements representing the impact a requirement has on the bulk electric system. Considering the complexity and interrelationships of the hundreds of requirements, an appropriate determination of a VRF is dependent on the expert knowledge and experience of industry personnel. This is a key part of the Standards Development process and cannot support this proposal until the VRF is included in the standards development process as part of the industry process in determination and industry acceptance by vote.</p>
Response:	<p>As proposed, stakeholders will still have a strong role in the development of VRFs. Stakeholders who are drafting team members will work, as they do today, with NERC staff in proposing VRFs that are posted for stakeholder comment. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs.</p>
Segment:	1; 3; 5; 6
Organization:	Manitoba Hydro
Member:	Michelle Rheault; Greg C Parent; Mark Aikens; Daniel Prowse
Comment:	<p>Manitoba Hydro disagrees with NERC's decision to limit the industry input on the development of the VSL's to one commenting period and no vote.</p>
Response:	<p>The VSLs are not limited to just one comment period – the language in the proposed manual includes the following: The posting of draft VRFs and VSLs for stakeholder comment can be deferred until a second or later posting of the draft standard as determined by the standard drafting team; however, it is recommended that the VRFs and VSLs be posted for comment with the</p>

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	<p>entire draft Reliability Standard as early in the standard development process as possible.</p> <p>Note that the proposed language matches the current practice. Drafting teams have found that it is most effective to obtain stakeholder consensus on the requirements before proposing VRFs and VSLs associated with those requirements.</p> <p>The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs.</p>
Segment:	1; 3; 3;
Organization:	Progress Energy Carolinas; Florida Power Corporation
Member:	Sammy Roberts; Lee Schuster; Sam Waters;
Comment:	Progress Energy is voting Negative because it does not agree with the proposed modifications to the Reliability Standards Development Procedure which would remove the ability of industry stakeholders to directly vote on proposed new or revised VSLs and VRFs. Progress Energy is concerned that any comments that may be submitted by stakeholders and the results of the proposed “non-binding poll” will not have the same effect as a direct ballot. Progress is particularly concerned that VRFs could be set too high if stakeholder concerns are not adequately addressed in the comment phase.
Response:	NERC staff will work with the drafting teams to respond to all stakeholder comments submitted on VRFs and VSLs, and will make conforming changes in support of stakeholder comments that respect the criteria established for setting VRFs and VSLs. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs.
Segment:	1
Organization:	Puget Sound Energy, Inc.
Member:	Catherine Koch
Comment:	Regarding the Emergency Action Process for Standards Responsive to Imminent Issues that are Confidential it is unclear what process will be used for the standard drafting team selection process as it shall be limited to just those candidates who have already been identified as having the appropriate security clearance, the requisite technical expertise, and either have signed or are willing to sign a strict confidentiality agreement. It should be clear how entities have the opportunity to provide a selection team member.

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Response:	NERC's Chief Security Officer is working with stakeholders to form a team of diverse industry subject matter experts prepared to help NERC interpret the reliability-related impact of confidential threat information. As envisioned, these experts will assist in writing alerts and if needed, some of the experts will be used to draft new or revised standards to help the industry protect itself against the associated threat.
Segment:	2
Organization:	Midwest ISO, Inc.
Member:	Terry Bilke
Comment:	While we appreciate that the NERC BOT directed these changes, we disagree with bifurcation of compliance elements from the standards. This change does not address the perceived concern of NERC staff (that people will vote against a standard based on the compliance elements). People can still choose to do this without specifying the reason for voting against the standard. As citizens, we would not stand for our legislators creating laws without some knowledge of proportionality of sanctions. There is too much industry (to include NERC) effort being spent on compliance elements. NERC should develop a process and job aid for drafting teams so that simpler and more objective VRFs and VSLs are developed with the standards. NERC should work with the FERC so these objective VRFs and VSLs are approved when submitted. We should not be expending this much effort on something that adds so little value to reliability in its current form.
Response:	Members of a ballot pool are allowed to vote in the negative without providing a reason. The standards development process is still being refined to meet the needs of a standards development process under a regime of enforceable standards. Some of the challenges associated with setting VRFs and VSLs are associated with some of the "ground rules." The definitions used by NERC for assigning VRFs don't line up with the criteria used by FERC in approving VRFs. The process used to establish VSLs for Version 0 standards wasn't totally accepted by FERC and was recently revised and a new set of VSL development guidelines was submitted to FERC. The Process Subcommittee is working on some proposed revisions to the criteria for setting VRFs.
Segment:	3; 4
Organization:	Consumers Energy
Member:	David A. Lapinski; David Frank Ronk
Comment:	These modifications recharacterize VSLs and VRFs as not being part of the related standard, and makes the industry vote on these advisory, as opposed to binding. We disagree with both of these approaches. First, we believe that the VSLs and VRFs are, and should be, part of the standard itself. First of all, they go hand-in-hand with the requirements, and need to be in careful lock-step

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	<p>with the requirements. Secondly, if they are a separate process, and are balloted and approved separately, they may not be maintained with the standard, may not reflect the latest approved draft of the standard, and may be difficult to locate when working with the standard. As for the voting and approval process, the industry approval is the only method to assure that the VSLs (in particular) do not essentially impose additional requirements and reflect achievable performance. To make the industry vote advisory (non-binding) and make approval of the VSLs at NERC a function of the NERC Board as advised by the NERC staff removes this critical oversight of VSLs. It should be noted that, if an industry vote IS binding, the industry clearly is not voting whether an entity is compliant, but instead voting on how compliance should be judged. The concerns that we have noted here are illustrated by the VSL ballot on CIP-002 - CIP-009, where the proposed VSLs are clearly flawed in that they establish the possibility of double jeopardy for non-compliance with the related standards.</p>
<p>Response:</p>	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. ANSI does not consider that any of the compliance elements associated with a requirement are actually part of the “standard.” The proposed process does call for the development and approval of VRFs and VSLs at the same time as the associated requirements.</p> <p>The proposed process contains the provision that the VRFs and VSLs will be developed along side one another in order to insure that they are align. VSLs can not impose additional requirements because they are not part of the requirement. Entities must comply with the requirements contained within the standard VSL are used following a determination of non-compliance not as part of the review of compliance.</p> <p>As proposed, stakeholders will still have a strong role in the development of VRFs. Stakeholders who are drafting team members will work, as they do today, with NERC staff in proposing VRFs that are posted for stakeholder comment. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs. Note that the process used to develop the VSLs for the CIP standards does not match the proposed process.</p>
<p>Segment:</p>	<p>5</p>
<p>Organization:</p>	<p>Consumers Energy</p>
<p>Member:</p>	<p>James B Lewis</p>
<p>Comment:</p>	<p>These modifications recharacterize VSLs and VRFs as not being part of the related standard, and makes the industry vote on these advisory, as opposed to binding. I disagree with both of these approaches. This approach is not conducive to good Standards development. I believe that the VSLs and VRFs are, and should be, part of the standard itself. First of all, they go hand-in-hand with the requirements, and need to be in careful lock-step with the requirements. Secondly, if they are a separate process, and are balloted and approved separately, they may not be maintained with the standard, may not reflect the latest approved draft of the standard, and may be difficult for standard users to locate when working with the standard. As for the voting and approval process, industry approval is the only method to assure that the VSLs do not inadvertently impose additional requirements and do reflect achievable performance. To make the industry vote advisory (non-binding) and make approval of the VSLs at NERC a function of</p>

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	<p>the NERC Board as advised by the NERC staff removes this critical oversight of VSLs. It should be noted that, if an industry vote IS binding, the industry clearly is not voting whether an entity is compliant, but instead voting on how compliance should be judged. The concerns noted here are illustrated by the VSL ballot on CIP-002 - CIP-009, where the proposed VSLs are clearly flawed in that they establish the possibility of double jeopardy for non-compliance with the related standards.</p>
Response:	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard." The proposed process does call for the development and approval of VRFs and VSLs at the same time as the associated requirements.</p> <p>As proposed, stakeholders will still have a strong role in the development of VRFs. Stakeholders who are drafting team members will work, as they do today, with NERC staff in proposing VRFs that are posted for stakeholder comment. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs. Note that the process used to develop the VSLs for the CIP standards does not match the proposed process.</p>
Segment:	3
Organization:	Duke Energy Carolina
Member:	Henry Ernst-Jr
Comment:	<p>Ballot Comments for Modifications to the Reliability Standards Development Procedure to Support NERC Board of Trustees Actions: Duke is voting negative for two reasons.</p> <p>The first deals with the changes made in response to the BOT directions to modify the process to address standards developed in response to national security emergency situations. We appreciate the clarification made to the previous draft, i.e., replacing the phrase critical issue with national security emergency situation. However, the section titled Special Procedures is still unclear and could lead to unnecessary confusion. It seems to be the intent that this section deal with three situations: 1) urgent actions, 2) emergency actions that are NOT confidential and 3) emergency actions that ARE confidential. If this is indeed the case, the section titled Standards to Support Issues that are Confidential should be merged with the section titled Emergency Action Process for Standards Responsive to Imminent Issues that are Confidential. The majority of these sections are identical, but there are small differences (such as omitting the information on how the draft standard will be distributed for comment and how the proposed standard will be presented to the BOT from the second section, and omitting the option for reduced posting and balloting times from the first section) which, along with the placement, creates needless confusion. The current placement of the section titled Standards to Support Issues that are Confidential seems to imply that it is a fourth situation (due to the differences in the sections) or that it</p>

	<p>applies to all the other three situations, neither of which makes much sense.</p> <p>The second reason deals with the changes made in response to the BOT directions to modify the process to change the way VRFs and VSLs are developed and approved. Again, we appreciate the changes made to the initial draft that clarified the role of the Standards Committee and NERC staff. Duke continues to believe that the set of recommended VRFs and VSLs should come from the Standards Committee instead of from NERC staff, and NERC staff should then be responsible for presenting any dissenting views.</p>
<p>Response:</p>	<p>The Special Procedures section of the manual covers standards covered under the following situations:</p> <ul style="list-style-type: none"> New or revised standard to address a non-confidential issue with a time constraint New or revised standard to address a non-confidential issue with a critical time constraint New or revised standard to address a confidential issue with a time constraint New or revised standard to address a confidential issue without any time constraint <p>Urgent Actions</p> <p>We will forward your comments about this section of the manual to the team that is working on the next set of revisions to the manual with a suggestion that they reorganize the section for improved clarity. When we reviewed this section of the manual in response to your comments, we noted that the first sentence of the subsection titled, “Standards to Support Issues that are Confidential” includes the word, “emergency” implying that the subsequent bullets apply only to standards developed under a tight schedule and could be misleading. We will propose removing the word, “emergency” from that sentence in the next set of revisions to the manual.</p> <p>The language in the proposed manual relative to responsibility for presenting VRFs and VSLs to the board included the following:</p> <p style="padding-left: 40px;">The Standards Committee shall present the results of the non-binding poll conducted and a summary of industry comments received on the final posting of the proposed VRFs and VSLs.</p> <p style="padding-left: 40px;">NERC staff shall present a set of recommended VRFs and VSLs that considers the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, appropriate governmental agency rules and directives, and VRF and VSL assignments for other Reliability Standards to ensure consistency and relevance across the entire spectrum of Reliability Standards.</p> <p>The meeting minutes from the board’s October 2008 meeting included the following language:</p> <p>6. Finalizing VRFs and VSLs for Board Approval — NERC staff will develop for board approval recommended assignments of VRFs and VSLs associated with Reliability Standards being presented for adoption by the board. In developing the recommended assignments, NERC staff will take into consideration the views of the standard drafting team, stakeholder comments received on the draft VRFs and VSLs during the posting for comment process, the non-binding poll results, appropriate governmental agency rules and directives, and VRF and VSL assignments for other Reliability Standards to ensure consistency and relevance across the</p>

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	<p>entire spectrum of Reliability Standards. NERC staff will provide explanation and justification for its recommendations in the agenda background material provided to the board.</p> <p>7. Approval of VRFs and VSLs by the Board — The chair or vice chair of the Standards Committee, or their designee, will present the results of the non-binding poll conducted and a summary of industry comments received on the final posting of the proposed VRFs and VSLs. The NERC Director of Standards, or his designee, will present for board approval the NERC staff recommendations on VRF and VSL assignments.</p> <p>Based on the review above, we believe the language in the proposed manual meets the intent of the board's actions.</p>
Segment:	3
Organization:	Georgia System Operations Corporation
Member:	Edward W Pourciau
Comment:	GSOC believes VRFs and VSLs should remain as a compliance element and part of the standard and standard development process. To be developed for each standard by the standard drafting team and balloted with the standard.
Response:	We appreciate your opinion. We were directed to modify the RSDP in support of the board's actions. The proposed process does include significant involvement of the drafting team and stakeholders. Stakeholders who are drafting team members will work, as they do today, with NERC staff in proposing VRFs that are posted for stakeholder comment. The board has indicated it wants to see the results of the non-binding poll when the board is asked to act on a standard and its VRFs and VSLs.
Segment:	3; 5
Organization:	Great River Energy
Member:	Sam Kokkinen; Cynthia E Sulzer
Comment:	GRE disagrees that the VRFs and VSLs are not part of the standard. GRE believes that the VRFs and VSLs are integral parts of the standard that should remain subject to industry vetting and approval.
Response:	Violation Risk Factors and Violation Severity Levels only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation

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	Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard." The proposed process does call for the development and approval of VRFs and VSLs at the same time as the associated requirements.
Segment:	3
Organization:	JEA
Member:	Garry Baker
Comment:	JEA believes that the VRF's are technical in nature and should be a part of the standard. They should be developed and approved thru the ANSI approved process.
Response:	Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard." The proposed process does call for the development and approval of VRFs and VSLs at the same time as the associated requirements
Segment:	3
Organization:	Louisville Gas and Electric Co.
Member:	Charles A. Freibert
Comment:	E.ON U.S. does not approve of the Version 7 revisions to the Reliability Standards Development Procedure. The proposed changes reduce the influence that stakeholders have in the development of Violation Severity Levels ("VSL"). The draft provides for stakeholders to make initial comments on VSLs and participate in a non-binding NERC staff poll. NERC staff may consider the comments and the poll results when reviewing the VSL determinations but NERC is not obligated to change proposed VSLs or

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	<p>even to respond directly to stakeholder comments or polls results. The current process provides for a stakeholder vote on the VSLs. E.ON U.S. recommends that NERC retain the current stakeholder role in determining VSL levels. E.ON U.S. also supports VSLs being assigned, and reviewed by stakeholders, on a requirement by requirement basis. The all or nothing vote process on VSLs can unnecessarily slow the approval process because in order to register disapproval over one VSL a stakeholder must vote against all proposed VSLs. This can delay the approval of reasonable VSLs.</p>
Response:	<p>As envisioned, NERC staff would respond to comments on draft VRFs and VSLs, in “coordination” with the associated drafting team.</p> <p>The “all or nothing” vote currently underway for various sets of VSLs as part of Project 2007-23, is not the same as the proposed process in Version 7 of the Reliability Standards Development Procedure. The proposed process in Version 7 of the Reliability Standards Development Procedure calls for NERC staff to work “in coordination” with the drafting team in developing VRFs and VSLs. The proposed process calls for the VRFs and VSLs to be posted for comment along with the associated requirements – which is exactly the same as current practice for standards under development.</p>
Segment:	3
Organization:	Municipal Electric Authority of Georgia
Member:	Steven M. Jackson
Comment:	The Ballot Body should retain a role in approving VSLs
Response:	Under the proposed modifications, the ballot pool for a standard does cast a non-binding vote in approving VSLs – and the board will consider the results of this vote in deciding whether to approve those VSLs.
Segment:	3
Organization:	Platte River Power Authority
Member:	Terry L Baker
Comment:	While we feel that there are some good changes in this reworked Standards Development Process, we are voting no for the following reasons: We strongly believe that the Violation Risk Factors are technical in nature and an integral part of the standards/requirements and thus should be developed and approved by the industry using the already agreed to ANSI accredited process. We agree that the VSL’s are appropriately part of the compliance process, and do not dispute the process developed for

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	<p>them. We do not understand the process for the development of “Confidential” standards. We believe that the premise is flawed in that you can develop standards using this process, with that many people involved and keep the information truly confidential. It is more likely to result in excluding appropriate participation and result in poor implementation and compliance than to successfully avoid inappropriate dissemination of information. Further, the process is likely to be too slow to accommodate true “national emergencies”. We believe the government needs to find an alternate way to address national emergencies.</p>
Response:	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the “standard.” There is a difference between a “notification” and a “requirement to comply.” Agreed that if there is a national security emergency we need action, and as envisioned, that would be addressed through an alert, followed, if needed by one or more new or revised requirements in a standard.</p> <p>NERC's Chief Security Officer is working with stakeholders to form a team of diverse industry subject matter experts prepared to help NERC interpret the reliability-related impact of confidential threat information. As envisioned, these experts will assist in writing alerts and if needed, some of the experts will be used to draft new or revised standards to help the industry protect itself against the associated threat.</p>
Segment:	4
Organization:	Alliant Energy Corp. Services, Inc.
Member:	Kenneth Goldsmith
Comment:	We believe the VRF's and VSL's need to be a part of the Reliability Standard process, and should not be separated from them. They need to be voted on and agreed to along with the standard itself.
Response:	<p>Agreed that VRFs and VSLs should be developed as part of the Reliability Standards Development process. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the “standard.” The proposed modifications do not call for developing VRFs and VSLs in a “serial” process – the proposed</p>

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	modifications call for developing VRFs and VSLs at the same time as the requirements.
Segment:	4
Organization:	Public Utility District No. 1 of Snohomish County
Member:	John D. Martinsen
Comment:	The District strongly supports the NERC Reliability Standards Development Procedure and believes it is an extremely important key to developing North American reliability standards. We support the electric industry standard development process, with active participation by NERC and FERC staff, as well as other appropriate stakeholders. However the District does not support the changes to the VRFs/VSLs development that were driven by the NERC Board of Trustees and FERC VRF comments. The District believes the Violation Risk Factors and Violation Severity Levels are technical in nature and are an integral part of the standards and should be developed and approved by the industry using the already agreed to ANSI accredited NERC Reliability Standards Development Procedure. This is the main reason the District is voting No. In addition to the VSL/VRF issue, the District is also concerned with the special procedures to handle national security emergency situations. The District believes this is not a standard development issue, but a communication and coordination issue. We believe FERC, the DOE, NERC and the REs already have tools in place to selectively notify the electric industry of threats and coordinate solutions. If a national security emergency is at hand we need action not documentation.
Response:	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard."</p> <p>Agreed that if there is a national security emergency we need action, and as envisioned, that would be addressed through an alert, followed by requirements in a standard. NERC's Chief Security Officer is working with stakeholders to form a team of diverse industry subject matter experts prepared to help NERC interpret the reliability-related impact of confidential threat information. As envisioned, these experts will assist in writing alerts and if needed, some of the experts will be used to draft new or revised standards to help the industry protect itself against the associated threat.</p>
Segment:	5
Organization:	JEA

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Member:	Donald Gilbert
Comment:	<p>This version 7 contains some good changes, but overall, it has some challenges:</p> <p>The Violation Risk Factors are technical in nature and should be an integral part of the standards/requirements and subject to industry consensus through the ANSI accredited standard development process.</p> <p>The VSL's are appropriately part of the compliance process and thus the proposed process to handle them is acceptable.</p> <p>The premise that you cannot develop standards using the traditional all inclusive process and maintain confidentiality is a hypothetical premise and is a least common denominator position. A well designed all inclusive process should achieve the necessary level of confidentiality while assuring the best level of participation and input. Further, the process is likely to be too slow to accommodate true "national emergencies". We believe the government needs to find an alternative way to address national emergencies, and that NERC is not the appropriate forum for this type of activity.</p>
Response:	<p>Violation Risk Factors only exist to provide the Compliance Enforcement Authority with some guidance in determining the size of a penalty or sanction for violation of the associated requirement. FERC's Order on Violation Severity Levels Proposed by the Electric Reliability Organization dated June 19, 2009, states "Similar to Violation Risk Factors, the Commission finds that Violation Severity Levels are not part of the Reliability Standard." FERC's Order on Rehearing and Clarification and Accepting Compliance Filing, dated 20 November, 2008, re-states "The VSL Order determined that, similar to violation risk factors, violation severity levels are not part of the Reliability Standard." The Board directed the SC to implement these changes to reflect FERC's position. In addition, ANSI does not consider any of the compliance elements to be part of the "standard."</p> <p>It is likely that the special process drafted to develop a standard to address a confidential issue affecting national security will never be used.</p>
Segment:	5
Organization:	Kansas City Power & Light Co.
Member:	Scott Heidtbrink
Comment:	Do not agree that the Violation Risk Factor (VRF) be removed from the standards development process as part of the role industry plays in the development of requirements.
Response:	As envisioned, the industry will continue to play a major role in the development of Violation Risk Factors. Stakeholders will continue to comment on VRFs and the NERC Board of Trustees will consider the results of the poll taken when determining whether to approve VRFs.

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Segment:	5; 6
Organization:	RRI Energy
Member:	Thomas J. Bradish; Trent Carlson
Comment:	<p>The SC is to be congratulated on the effort that they expended on the latest version of the RSDP. Incremental improvements are being made in each version. RRI is voting no to raise the importance of the following two issues:</p> <p>Too Many Standards/Requirements</p> <p>There has been much discussion around too many standard requirements that do not contribute to ALR that were just carried over from Version 0. This is mentioned in the NERC Three Year Assessment in appendix A, Section A, 1.d. A starting point to eliminate unnecessary requirements would be to require the standard drafting team (SDT) or the SAR drafting team to establish a need for a standard and the requirements of the standard before work begins writing a standard. It is suggested that this need must be proven by a statistical analysis study. These studies based upon Reliability Engineering models and methodology (as a sub-discipline of Industrial Engineering), should be performed to provide a numerical justification supporting the need for the standard/requirements. The discipline of Reliability Engineering is presently developing modeling and maintenance strategies for complex systems subjected to multiple failure mechanisms. The analysis has been applied to systems such as oil pipelines and civil infrastructures. There is no stated evidence of similar analysis being applied to the elements and protection of the BES. However, representative studies should provide a technical justification for a reliability standard and should reflect an improvement in maintaining ALR of the Bulk Electric System over any existing standards.</p> <p>Standard Development Time</p> <p>The standard development process can be accelerated by assigning a technical writer to the SDT. This is mentioned in the NERC Three Year Assessment in Appendix A, Section A, 2.f.iv. Once the need for a standard has been established the SDT could hold initial teleconferences to lay the foundation for what needs to be in the standard. Then the SDT could meet for at least 4 days with the technical writer with the objective that at the end of the 4 days a draft standard would be ready for NERC review. Currently the SDT meet for 2 days then at least 6 to 8 weeks elapse before the next meeting is held. Many times the same issue is debated again. The 4 day meeting will discipline the SDT to resolve issues and move on. After an expedited NERC review process the standard could be presented to industry via a webinars. Revisions if needed could be made and the standard posted for comment.</p>

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Response:	Your response is clear evidence that we have too many items using the RSDP acronym. Your comment applies to the Reliability Standards Development Plan used to identify the standards projects for upcoming years – but this ballot is for the proposed modifications to the Reliability Standards Development Procedure that were associated with actions taken by the NERC's Board of Trustees associated with dissolution of the NERC/NAESB Joint Interface Committee, the modified method of developing and approving Violation Risk Factors and Violation Severity Levels, and the new processes for addressing standards developed in response to national emergencies. We have forwarded your comments to the staff working on updates to the Reliability Standards Development Procedure.
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