Agenda
Compliance Committee
August 10, 2016 | 9:45 a.m. – 10:45 a.m. Atlantic

Halifax Marriott Harbourfront Hotel
1919 Upper Water Street
Halifax, NS B3J 3J5
Canada
1-902-421-1700

Room Name: Nova Scotia Ballroom – 2nd Floor

Introduction and Chair’s Remarks

NERC Antitrust Compliance Guidelines and Public Announcement

Agenda Items

1. Minutes* – Approve
   a. Meeting of May 4, 2016

2. Follow-up Regarding Action Items from Prior Meeting – Discussion

3. Consolidated Hearing Process* – Information

4. Handling of Compliance Evidence Related to Critical Infrastructure Protection Reliability Standards* – Information

5. Compliance Monitoring and Enforcement Program Quarterly Report* – Update

6. Reference Materials* – Information
   a. Regional Consistency Reporting Tool

7. Adjournment

*Background materials included.
NERC Antitrust Compliance Guidelines

General
It is NERC’s policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers, or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC’s compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC’s antitrust compliance policy is implicated in any situation should consult NERC’s General Counsel immediately.

Prohibited Activities
Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information, and participants’ expectations as to their future prices or internal costs;
- Discussions of a participant’s marketing strategies;
- Discussions regarding how customers and geographical areas are to be divided among competitors;
- Discussions concerning the exclusion of competitors from markets;
- Discussions concerning boycotting or group refusals to deal with competitors, vendors, or suppliers; and
- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC’s General Counsel before being discussed.

Activities That Are Permitted
From time to time, decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions
and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC’s Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC reliability standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising reliability standards, special operating procedures, operating transfer capabilities, and plans for new facilities;
- Matters relating to the impact of reliability standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system;
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities; and
- Matters relating to the internal governance, management, and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.
Janice B. Case, Chair, called to order the duly noticed meeting of the Board of Trustees Compliance Committee (BOTCC) of the North American Electric Reliability Corporation (NERC) on May 4, 2016, at 9:45 a.m. Central, and a quorum was declared present.

Present at the meeting were:

**Committee Members**
- Janice B. Case, Chair
- Frederick W. Gorbet
- David Goulding
- Jan Schori
- Roy Thilly

**Board of Trustees Members**
- Gerald W. Cauley, President and Chief Executive Officer
- Paul F. Barber
- Robert G. Clarke
- Kenneth W. DeFontes, Jr.
- George S. Hawkins
- Kenneth G. Peterson

**NERC Staff**
- Valerie Agnew, Senior Director of Reliability Assurance
- Charles A. Berardesco, Senior Vice President, General Counsel, and Corporate Secretary
- Mark Lauby, Senior Vice President and Chief Reliability Officer
- Sonia Mendonça, Vice President of Enforcement and Deputy General Counsel
- Tobias Whitney, Manager of CIP and Operations Assurance

**Regional Entity Staff**
- Stacy Dochoda, President and Chief Executive Officer, Florida Reliability Coordinating Council

**Additional Attendees**
- Thad Ness, Xcel Energy
- Patti Metro, National Rural Electric Cooperative Association
- Roxanne Scacco, Duke Energy

**NERC Antitrust Compliance Guidelines**
Ms. Case directed the participants’ attention to the NERC Antitrust Compliance Guidelines included with the agenda materials, and stated that any additional questions regarding these guidelines should be directed to Mr. Berardesco.
Minutes
Upon motion duly made and seconded, the BOTCC approved the minutes of the February 10, 2016, meeting as presented at the meeting.

Follow-up Regarding Action Items from Prior Meeting
Ms. Case summarized key points from the April 7, 2016, Executive Session, as well as the May 3, 2016, Closed meeting and Executive Session. She also discussed the 2015 Annual Vegetation Report. She and Mr. Cauley both noted a troubling increase in grow-in and fall-in occurrences.

Compliance Guidance Implementation
Ms. Metro, Chair of the Compliance and Certification Committee (CCC), and Ms. Agnew presented an update on CCC Compliance Guidance Team (Team) activities. In particular, Ms. Metro discussed the CCC “Procedure to Become a Prequalified Organization Eligible to Submit Implementation Guidance to the ERO.”

Ms. Agnew expressed NERC’s support of the Team’s efforts, particularly the creation of a compliance guidance website. She noted that 23 items for implementation guidance are posted on the website.

Coordinated Oversight of Multi-Region Registered Entities
Ms. Dochoda presented an overview of the Coordinated Oversight Program for multi-region registered entities (MRRE Program), noting that the MRRE Program is voluntary and intended to enhance consistency in compliance and enforcement throughout the Electric Reliability Organization (ERO) Enterprise and provide for more efficient oversight of multi-region registered entities.

Ms. Scacco discussed Duke Energy’s experience in the MRRE Program, noting that Duke Energy has a presence in six of the eight regions. She stated that the MRRE Program reduced the demands on and resources required by Duke Energy through the benefits of centralized enforcement and single points of contact. She also noted improvements are still needed in the areas of management of audits and data submittals.

Mr. Ness explained that Xcel Energy has participated in the MRRE Program since 2015. He highlighted the benefits of the MRRE program, including the replacement of annual audits by the Regional Entities (REs) with joint audits every three years.

Ms. Case stated that the MRRE Program not only benefits the participants who opt in, but also leads to overall greater consistency throughout the ERO Enterprise. A further update on the program will be provided at a future Committee meeting.

Critical Infrastructure Protection (CIP) Implementation
Mr. Whitney provided an update on recent activities in the area of the CIP-014-2 Physical Security and CIP Version 5 Standards. The January 2016 Federal Energy Regulatory Commission (FERC) Order 822 directed NERC to make modifications to the CIP Standards to: (1) address transient electronic devices, (2) require protections from communication network components, and (3) revise the definition for Low Impact External Routable Connectivity. FERC Order 822 also directed NERC to perform a comprehensive study that identifies the strength of the CIP Version 5 remote access controls, the risks posed by remote access-
related threats and vulnerabilities, and appropriate mitigating controls. Mr. Whitney noted that the timeline to complete this study is July 2017, and commended the cooperation between NERC, the REs, and the Standards Drafting Team. Mr. Cauley encouraged stakeholders to provide feedback for the study. In response to a question regarding NERC’s protection of confidential information collected for CIP Standards, NERC staff stated that NERC follows Section 1500 of the NERC Rules of Procedure and the NERC Confidentiality Policy. NERC staff will provide additional background on confidential practices at a future BOTCC meeting.

**Compliance Monitoring and Enforcement Program Quarterly Report**
Ms. Mendonça presented the CMEP first quarter report, noting that mitigation has been completed for 99% of noncompliance discovered in 2013 or earlier. She also noted the increased self-identification of noncompliance, highlighting that in the first quarter of 2016, registered entities self-identified over 90% of noncompliance. She informed the BOTCC of ten new entrants to the self-logging program.

**Reference Materials**
Ms. Case directed the BOTCC’s attention to the reference materials that had been included with the advance meeting materials.

**Adjournment**
There being no further business, and upon motion duly made and seconded, the meeting was adjourned.

Submitted by,

Charles A. Berardesco
Corporate Secretary
Action Item(s)

- A report will be provided to the BOTCC at a future meeting with an update on the MRRE Program.
- The BOTCC requested that NERC staff provide a follow-up discussion at a future meeting regarding the security of confidential information collected for CIP Standards.
Consolidated Hearing Process

Action
Information

Background
The current North American Electric Reliability Corporation (NERC) Rules of Procedure (ROP) contemplate that hearings to resolve contested noncompliance, mitigation plans, remedial action directives, penalties, or sanctions may be held at each Regional Entity (RE). NERC is proposing the introduction of a Consolidated Hearing Process, which would allow REs the option to move the hearing process to NERC. The proposed revisions are designed to streamline costs, enhance consistency, and increase efficiencies. As noted below, the composition of the consolidated Hearing Body, which would include members appointed by the RE, would ensure that a regional perspective is maintained. This background paper summarizes the proposed process, highlights its key benefits, and details the necessary revisions to the NERC ROP to implement the proposed process.

Summary of Proposed Consolidated Hearing Process
Under the proposed process, the consolidated Hearing Body will generally be composed of five members, including the Hearing Officer. Up to two members may be nominated by the RE from which the case originates. The NERC Board of Trustees Compliance Committee (BOTCC) will appoint two members chosen among NERC Trustees not serving on the BOTCC at the time of the request for hearing. A Hearing Officer will be selected by the four Hearing Body members. If an RE chooses to appoint one or no representative, then the BOTCC will select additional members to fill those vacancies among NERC Trustees not serving on the BOTCC at the time of the request for hearing. In the event an RE chooses not to appoint members to the Hearing Body and there are not four NERC Trustees available to participate in the Hearing Body, as determined by the BOTCC, the Hearing Body may be composed of three members (three NERC Trustees not serving on the BOTCC). If two stakeholder members are appointed by the RE, the stakeholders shall not represent the same industry segment.

Unless noted below, the conduct of the hearing under either the RE Hearing Process or the Consolidated Hearing Process would follow the existing rules, among others, relating to timing of activities, filings, service, participation, and evidence.

In addition, under either hearing process, the decision of the Hearing Body would be appealable as a matter of right to the NERC BOTCC. The appealed issues would be reviewed under a de novo standard, meaning the NERC BOTCC would act as if it were hearing the case for the first time, affording no deference to the Hearing Body’s decision. In the Federal Energy Regulatory Commission’s (FERC) order certifying NERC as the Electric Reliability Organization (ERO), FERC

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1 Appendix A provides a section-by-section discussion of the ROP revisions.
directed NERC to review appealed matters *de novo*. The BOTCC would generally have one hundred and eighty (180) days to render its decision.

REs will select either the existing RE Hearing Process or the proposed Consolidated Hearing Process. The selection will be in effect for each RE for a minimum of six months. Hearings will be conducted under the process in effect at the RE at the time the registered entity submits a hearing request. An RE may change its selected process by giving notice to NERC six (6) months prior to the change becoming effective.

**Benefits of the Consolidated Hearing Process**

The key benefits of the proposed Consolidated Hearing Process are increased efficiency and reduced cost to the ERO Enterprise. The proposed process allows the ERO Enterprise to centralize the hearing process, eliminating duplicative processes at the RE level. At the same time, the proposed process preserves the regional perspective by having up to two members on the Hearing Body nominated by the RE. Moreover, to the extent that the REs select this proposed Consolidated Hearing Process, it also provides the ERO Enterprise with increased consistency of process.

There are also additional cost savings from consolidated training sessions for potential Hearing Body members. Rather than each RE developing and implementing training on the hearing process to its Board members and staff, there could be joint training sessions. This would also allow for consistent messaging regarding the hearing process.

Another benefit of a consolidated Hearing Body is the elimination of *ex parte* communication restrictions within the RE in connection with matters on appeal. During a hearing, RE staff involved in the development of the case may be precluded from discussing matters related to that case with its Board members responsible for deciding the case. Instead, the proposed Consolidated Hearing Process would allow RE staff to discuss freely the case with its Board members, except any Board member that is selected to participate on the Hearing Body at the time.

**Public Comment Period**

As of the time of the posting of this agenda package, NERC estimates that it will post publicly the ROP revisions necessary to implement the Consolidated Hearing Process on July 26, 2016, for a comment period ending on September 9, 2016. NERC expects to submit these revisions to the NERC Board of Trustees in November 2016. The final version of the proposed ROP revisions, as well as a document explaining how NERC considered any comments, is expected to be posted on the NERC website on October 17, 2016, in advance of the November 2, 2016, NERC Board of Trustees meeting.

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2 “[T]he ERO should have *de novo* review authority on appeal in matters where consistency is desirable, such as the interpretation of standards, the application of penalty factors to specific facts, and whether the factual record supports a particular penalty or remedial action.” *Order Certifying N. Am. Elec. Reliability Corp. as the Elec. Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 1,062 at P 491 (2006).
Appendix A
ROP Revisions
As described below, the majority of the proposed changes to ROP Sections 403, 407, 408, 409, 412, 413, and 414 relate to consistency with terminology. The proposed revisions also describe the RE Hearing Process and Consolidated Hearing Process, in addition to inserting explicitly the standard of review related to appeals and a time frame for the BOTCC to render a decision on an appeal. The disposition of certified questions is also clarified. The proposed revisions to Section 400 are summarized below:

- Section 403.4 provides that the RE Board or compliance panel reporting directly to the RE Board will designate a “Hearing Body” (with appropriate recusal procedures) that will be vested with the authority for conducting all compliance hearings under the selected process under Section 403.15.

- Section 403.15 would require REs to select either the RE Hearing Process or the Consolidated Hearing Process to conduct all hearings. Section 403.15 also provides that an RE may change its selected hearing process by giving notice to NERC six (6) months prior to the modification becoming effective. Sections 403.15A and B, respectively, propose the composition of the Hearing Body involved in each hearing process.

- The proposed revisions to numerous Section 400 rules remove references to the defined term “Regional Entity Hearing Body” and replace it with the defined term “Hearing Body,” which is discussed further below.

- Section 409.1 sets forth that the BOTCC shall render a decision on an appeal from a final decision of a Hearing Body within one hundred and eighty (180) days, subject to an extension for good cause, following the receipt by NERC’s Director of Enforcement.

- Section 409.5 provides that the BOTCC would review an appeal of a Hearing Body’s decision under a de novo standard.

- The proposed revisions to Section 412.1 added references to the “Compliance Committee” to be consistent with existing references to the “Compliance Committee” in Section 412, among other relevant provisions, including Sections 408.8, 409.5, and 414.4.

Appendix 2 (Definitions) Revisions
The proposed modifications to Appendix 2 definitions are as follows:

- “Clerk” is revised to include explicitly NERC as a Compliance Enforcement Authority that can assign an individual to perform administrative tasks relating to the conduct of hearings as described in Attachment 2, Hearing Procedures, to Appendix 4C.

- “Confirmed Violation” is modified to delete reference to the RE Hearing Body and replace it with Hearing Body.

- “Consolidated Hearing Process” is added for clarity. Consolidated Hearing Process means the process under Section 403.15B used to conduct hearings and issue decisions concerning disputed compliance matters in accordance with Attachment 2, Hearing Procedures, of Appendix 4C.

- “Director of Enforcement” is added because the ROP references Director of Enforcement, among other instances, in Section 409 (appeals from final decisions of hearing bodies) and Section 414 (appeals of decisions of hearing bodies granting or denying motions to intervene in hearing body proceedings). Director of Enforcement means the NERC
Director of Enforcement or of the Compliance Enforcement Authority, as applicable, or another individual designated by the Compliance Enforcement Authority who is responsible for the management and supervision of Enforcement staff, or his or her designee.

- “Hearing Body” is revised to mean the body designated by the Compliance Enforcement Authority to conduct hearings and issue decisions concerning disputed compliance matters in accordance with Attachment 2, Hearing Procedures, of Appendix 4C.
- “Hearing Officer” is revised to refer to, among others, an individual employed or contracted by the Compliance Enforcement Authority or NERC to preside over hearings conducted under Attachment 2, Hearing Procedures, of Appendix 4C.

**Appendix 4C (CMEP) Revisions**
The proposed revisions to Appendix 4C account for both hearing processes in the hearing procedures. Among others, the following revisions were made in Appendix 4C:

- Section 1.1.1(b) was revised to reflect both hearing processes, including clarifying that Hearing Body decisions, under either hearing process, would require a majority vote to be consistent with other provisions addressing interlocutory reviews (1.4.4(e)) and Hearing Body final orders (1.7.8(b)).
- Section 1.1.4(b) regarding the interpretation of hearing procedures was deleted because it was no longer consistent with the proposed composition of hearing bodies under both hearing processes.
- The definitions contained in Section 1.1.5 were deleted and intentionally left blank because they were duplicative of the definitions contained in Appendix 2.
- Several proposed revisions relate to modifying procedural rules to incorporate both hearing processes involving issues such as the submission of documents (1.2.3), service (1.2.4), computation of time (1.2.5), location of hearings (1.2.10), disqualification (1.4.5), *ex parte* communications (1.4.7(b)(4)), and documents that may be withheld by staff (1.5.7(b)).
- Section 1.3.1(h) was added to incorporate explicitly the Consolidated Hearing Process in the procedural rules governing initiation of the hearing process. Likewise, Section 1.9.1(c) was added to incorporate the Consolidated Hearing Process in the initiation of a remedial action directive hearing.
- Section 1.3.4(h) regarding the shortened hearing procedure, to conform the language to ROP Section 409.1, was revised to require that the Hearing Body issue a final order within one hundred and twenty (120) days of the notice of hearing, subject to an extension for good cause.
- Section 1.4.3(7) was added to provide that if the Compliance Enforcement Authority has adopted the Consolidated Hearing Process under ROP Section 403.15B, the Hearing Officer will cast the deciding vote in the event any Hearing Body vote results in a tie.
- Section 1.5.12 adds references to the “Compliance Committee” to be consistent with ROP Section 412.1 that provides that the BOTCC considers and resolves certified questions.
- Section 1.7.8(c) governing the Hearing Body final order, to conform the language to ROP Section 409.1, was revised to require that the Hearing Body issue a final order within
thirty (30) days following the last to occur of the initial opinion, exceptions or replies thereto, or oral argument, subject to an extension for good cause.
Handling of Compliance Evidence Related to Critical Infrastructure Protection Reliability Standards

**Action**
Information

**Summary**
NERC staff will provide information regarding the protection of confidential information collected by NERC in connection with compliance monitoring and enforcement of Critical Infrastructure Protection Reliability Standards.
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>1</td>
</tr>
<tr>
<td>Introduction</td>
<td>2</td>
</tr>
<tr>
<td>Highlights from Q2 2016</td>
<td>2</td>
</tr>
<tr>
<td>Enforcement</td>
<td>2</td>
</tr>
<tr>
<td>Compliance Assurance</td>
<td>2</td>
</tr>
<tr>
<td>Certification and Registration</td>
<td>3</td>
</tr>
<tr>
<td>Enforcement</td>
<td>4</td>
</tr>
<tr>
<td>Focus on Vegetation Management</td>
<td>4</td>
</tr>
<tr>
<td>Vegetation-Related Transmission Outages</td>
<td>4</td>
</tr>
<tr>
<td>Enforcement Oversight</td>
<td>4</td>
</tr>
<tr>
<td>FFT and Compliance Exception Sampling and Process Review</td>
<td>4</td>
</tr>
<tr>
<td>Dismissal Process Review</td>
<td>5</td>
</tr>
<tr>
<td>Other Quarterly Enforcement Updates</td>
<td>5</td>
</tr>
<tr>
<td>Compliance Assurance</td>
<td>7</td>
</tr>
<tr>
<td>Vegetation-Related Transmission Outages</td>
<td>7</td>
</tr>
<tr>
<td>Coordinated Oversight of Multi-Region Registered Entities (MRRE)</td>
<td>7</td>
</tr>
<tr>
<td>CIP Standards</td>
<td>7</td>
</tr>
<tr>
<td>CIP Version 5</td>
<td>7</td>
</tr>
<tr>
<td>Physical Security</td>
<td>8</td>
</tr>
<tr>
<td>Compliance Monitoring Oversight</td>
<td>8</td>
</tr>
<tr>
<td>ERO Enterprise Completion of Initial IRAs</td>
<td>8</td>
</tr>
<tr>
<td>NERC Observations of Regional Entity Compliance Monitoring Activities</td>
<td>8</td>
</tr>
<tr>
<td>Metrics Q2 2016 Updates</td>
<td>8</td>
</tr>
<tr>
<td>ERO Enterprise IRA and ICE Utilization</td>
<td>8</td>
</tr>
<tr>
<td>Certification and Registration</td>
<td>10</td>
</tr>
<tr>
<td>Certification</td>
<td>10</td>
</tr>
<tr>
<td>Registration</td>
<td>10</td>
</tr>
<tr>
<td>Appendix A – Enforcement</td>
<td>11</td>
</tr>
<tr>
<td>CMEP Metrics</td>
<td>11</td>
</tr>
<tr>
<td>Mitigation Completion Status</td>
<td>11</td>
</tr>
<tr>
<td>Age of Noncompliance in ERO Enterprise Inventory</td>
<td>11</td>
</tr>
<tr>
<td>Average Age of Noncompliance in the ERO Enterprise inventory</td>
<td>12</td>
</tr>
<tr>
<td>Number of New Violations Discovered in 2016</td>
<td>12</td>
</tr>
<tr>
<td>Table of Contents</td>
<td>Page</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Number of Instances of Noncompliance Discovered Internally vs Externally</td>
<td>12</td>
</tr>
<tr>
<td>Self-Logging Utilization</td>
<td>14</td>
</tr>
<tr>
<td>Relationship of Self-Logging and Compliance Exceptions</td>
<td>14</td>
</tr>
<tr>
<td>Use of Compliance Exceptions for Minimal Risk Issues</td>
<td>15</td>
</tr>
<tr>
<td>Disposition Breakdown by Region</td>
<td>16</td>
</tr>
<tr>
<td>Most Violated Standards Discovered in 2016</td>
<td>17</td>
</tr>
<tr>
<td>Appendix B – Compliance Assurance</td>
<td>18</td>
</tr>
<tr>
<td>Regional Entity Completion of Initial IRAs for BAs, TOPs, and RCs</td>
<td>18</td>
</tr>
<tr>
<td>ERO Enterprise Completion of Initial IRAs</td>
<td>18</td>
</tr>
<tr>
<td>Coordinated Oversight Program for MRREs</td>
<td>20</td>
</tr>
</tbody>
</table>
Preface

The North American Electric Reliability Corporation (NERC) is a not-for-profit international regulatory authority whose mission is to assure the reliability of the bulk power system (BPS) in North America. NERC develops and enforces Reliability Standards; annually assesses seasonal and long-term reliability; monitors the BPS through system awareness; and educates, trains, and certifies industry personnel. NERC’s area of responsibility spans the continental United States, Canada, and the northern portion of Baja California, Mexico. NERC is the electric reliability organization (ERO) for North America, subject to oversight by the Federal Energy Regulatory Commission (FERC) and governmental authorities in Canada. NERC’s jurisdiction includes users, owners, and operators of the BPS, which serves more than 334 million people.

Several assessment areas within the eight Regional Entity (RE) boundaries divide the North American BPS, as shown in the map and corresponding table below.

The highlighted areas denote overlap as some Load-Serving Entities participate in one region while associated Transmission Owners/Transmission Operators participate in another.

<table>
<thead>
<tr>
<th>RE</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRCC</td>
<td>Florida Reliability Coordinating Council</td>
</tr>
<tr>
<td>MRO</td>
<td>Midwest Reliability Organization</td>
</tr>
<tr>
<td>NPCC</td>
<td>Northeast Power Coordinating Council</td>
</tr>
<tr>
<td>RF</td>
<td>ReliabilityFirst</td>
</tr>
<tr>
<td>SERC</td>
<td>SERC Reliability Corporation</td>
</tr>
<tr>
<td>SPP RE</td>
<td>Southwest Power Pool Regional Entity</td>
</tr>
<tr>
<td>Texas RE</td>
<td>Texas Reliability Entity</td>
</tr>
<tr>
<td>WECC</td>
<td>Western Electricity Coordinating Council</td>
</tr>
</tbody>
</table>
Introduction

To supplement the Annual Compliance Monitoring and Enforcement Program (CMEP) report, NERC provides the Board of Trustees Compliance Committee (BOTCC) quarterly reports that track a number of metrics and provide additional information regarding ongoing oversight of the REs to evaluate the success of the risk-based CMEP and identify any needed improvements. This Q2 2016 report includes only those program areas that have seen a change from the prior quarter’s report, which is available here.

In Q2 2016, NERC continued its qualitative reviews of various aspects of the risk-based CMEP to evaluate the effectiveness of CMEP strategies and program execution. NERC staff continued periodic process reviews to identify and incorporate best practices and guidance for REs. These reviews operated in a consistent manner and conformed to all regulatory requirements, Rules of Procedure, and other practices needed to provide objective, fair, and effective compliance and enforcement.

In addition, NERC continues to track, among other items, timeliness of mitigation of noncompliance, percentage of violations that are self-identified, use of and trends related to streamlined disposition methods, average age of outstanding noncompliance in the ERO Enterprise inventory, and the total number of Inherent Risk Assessments (IRAs) and Internal Control Evaluations (ICEs) conducted.

As discussed further below, through Q2 2016, the ERO Enterprise made substantial progress regarding the completion of mitigation activities. The average age of noncompliance in the ERO Enterprise inventory remains well below the threshold. Lastly, REs continued to conduct IRAs and ICEs, in addition to using streamlined disposition methods for minimal risk issues. NERC will continue to track and report on these metrics, among others, throughout 2016.

Highlights from Q2 2016

Enforcement

NERC and FERC staff completed the Annual Find, Fix, Track, and Report (FFT) and Compliance Exception Sampling in Q2. On June 15, 2016, FERC issued its Notice of Staff Review of Compliance Programs. Notably, FERC staff agreed with the final risk determinations for all samples and noted significant improvement in the clear identification of root cause in all samples posted after the feedback calls from the previous year’s survey. On June 20, 2016, NERC staff filed its closure letter that included similar findings.

NERC staff also completed its process review of the REs’ dismissal practices for violations. The purpose of this process review was to identify areas for improvement and provide general recommendations. NERC concluded that letters of dismissal are generally adequate in communicating the reasons for dismissal and the registered entities and the REs provided logical connections between the noncompliance and the basis for dismissal along with sufficient evidence.

On April 14, 2016, FERC approved in a letter order NERC’s Annual CMEP report, which was filed with FERC in February 2016. On May 4, 2016, FERC approved by letter order the Compliance filing and petition for approval of Rules of Procedure revisions that NERC filed in March.

Finally, NERC Enforcement is continuing to oversee the implementation of the risk-based CMEP and is meeting related goals.

Compliance Assurance

Progress continues in risk-based compliance monitoring, as well as implementation of Critical Infrastructure Protection (CIP) Standards for CIP Version 5 and Physical Security. During Q2 2016, NERC continued coordination
activities with FERC in its reviews of RE IRA processes and sampled IRA results, as well as ongoing observations of RE compliance monitoring activities to determine implementation progress of risk-based compliance monitoring. In June 2016, NERC and the REs revised the 2016 ERO Enterprise CMEP Implementation Plan to include region-specific updates and to include vegetation management, FAC-003-3, within the Maintenance and Management of BPS Assets ERO Enterprise risk element. The 2016 risk element update reflects ERO Enterprise emphasis on the monitoring of the risk of transmission outages, and associated potential for cascading events, due to vegetation growth in the transmission right-of-way (ROW). NERC and the REs continue to monitor emerging risks and trends that may affect compliance monitoring. The recent modification to include FAC-003-3 as a risk element and area of focus for compliance monitoring is one example of how the ERO Enterprise reacts to evolving reliability risks during the CMEP implementation year.

Certification and Registration
Work continues in preparing for the January 2017 filing required by FERC on the effects of the removal of the Load-Serving Entity registration from the NERC Compliance Registry.

The first exercise of the NERC-led panel process established in the Risk-Based Registration initiative will likely occur in Q3 2016 due to Distribution Providers requesting de-activation or application of a subset of NERC Reliability Standards.
Focus on Vegetation Management

Vegetation-Related Transmission Outages

As highlighted above, the ERO Enterprise monitors all categories of vegetation-related outages that could pose a risk to the reliability of the transmission system, and, although the overall number of vegetation contacts remains small, there has been an increase in the number of contacts. The ERO Enterprise will continue to monitor these matters and enforce any noncompliance appropriately. Data regarding vegetation-related outages in 2015 is available in the 2015 Annual Vegetation-Related Transmission Outage Report.

In Q1 2016, the REs reported seven vegetation-related outages to NERC, all of which were Category 3\(^1\) contacts. The majority of the outages occurred on 230 kV lines. All seven of the vegetation-related outages in 2016 involved healthy trees. The trees fell into transmission lines during severe weather conditions in all seven cases. There have been no Category 1A\(^2\) or 1B\(^3\) grow-in outages in 2016.

Vegetation contact violations inherently pose a significant threat to reliability of the BPS. A serious risk vegetation contact was filed as a Full Notice of Penalty (NOP) on May 31, 2016, involving a single violation of FAC-003-3 R2 in the FRCC region.\(^4\)

Enforcement Oversight

FFT and Compliance Exception Sampling and Process Review

As highlighted above, FERC and NERC staff have completed the annual oversight of the FFT program, as outlined in the March 15, 2012, Order, and the Compliance Exception program, as proposed by NERC’s September 18, 2015, Annual Compliance Filing. In its Notice of Staff Review of Compliance Programs, FERC agreed with NERC that the FFT and Compliance Exception programs are meeting expectations.

Sampling for the 2015 program year indicated that the REs appropriately included the sampled noncompliance in the FFT and Compliance Exception programs, and that the registered entities adequately remediated all 132 instances of noncompliance. FERC and NERC staff’s sample analysis did indicate a small number of documentation concerns, particularly with regard to the quality of the information contained in the FFT or Compliance Exception postings. For example, several FFT or Compliance Exception issues still lacked some of the information necessary for the posted FFT or Compliance Exception. This includes information such as start or end dates and factors affecting the risk during the pendency of the noncompliance. Subsequent review of the supporting information for these FFTs or Compliance Exceptions identified a majority of the missing information. FERC and NERC staff ultimately agreed with the final risk determinations for all 132 samples. Significantly, staff noted improvement in the clear identification of root cause in all samples posted after the feedback calls from the previous year’s survey. In addition, FERC and NERC staff noted that the FFTs and Compliance Exceptions sampled did not contain any material misrepresentations by the registered entities. In June 2016, NERC staff provided individual feedback letters to the REs with specific findings and recommendations for each region, and NERC filed its closure letter including general findings from the review.

\(^1\) Category 3 — Fall-ins: Sustained Outages caused by vegetation falling into applicable lines from outside the ROW.

\(^2\) Category 1A — Grow-ins: Sustained Outages caused by vegetation growing into applicable lines that are identified as an element of an Interconnection Reliability Operating Limit (IROL) or Major WECC Transfer Path, by vegetation inside or outside of the ROW.

\(^3\) Category 1B — Grow-ins: Sustained Outages caused by vegetation growing into applicable lines, but are not identified as an element of an IROL or Major WECC Transfer Path, by vegetation inside or outside of the ROW.

\(^4\) Other serious risk violations filed in Q2 2016 NERC include violations of TOP-002-2 R6, TOP-004-1 R2, and TOP-004-1 R4 in a Full NOP on April 28, 2016.
Dismissal Process Review
In the second half of 2015, NERC staff conducted a review of 100 sampled possible noncompliance dismissed between March 1, 2013, and February 28, 2015, to evaluate the REs’ dismissal practices for violations. The purpose of this process review was to identify areas for improvement and provide general recommendations. NERC has provided each RE with specific findings based on the dismissals reviewed for the particular region and in Q2 2016, and has finalized its report on the dismissal process.

Based on analysis of the sampling results, NERC concluded that letters of dismissal are generally adequate in communicating the reasons for dismissal to the registered entities and the REs provided logical connections between the noncompliance and the basis for dismissal along with sufficient evidence. Nevertheless, in some instances the description and evidence of the bases of dismissal lacked sufficient detail, the RE did not dismiss in a timely manner, there were instances of double-reporting that led to a dismissal, or internal documents were not current.

Among other things, NERC found that registered entities discovered internally 70% of the dismissed noncompliance during the sampling period. This is comparable to the overall 75% filed noncompliance discovered internally for the same sampling period. This similarity indicates that dismissals occur at approximately the same rate for all noncompliance, whether discovered internally or externally. Accordingly, there does not appear to be an immediate need to focus education for either registered entities or REs to reduce the frequency of dismissals.

As part of its oversight role, NERC will use the recommendations included in the dismissal report during its day-to-day processing of Letters of Dismissal, and would expect to conduct another review on this subject as appropriate.

Other Quarterly Enforcement Updates
The following quarterly enforcement updates are current as of the end of Q2 2016 (June 30, 2016):⁵

Mitigation Completion
- There are 118 violations discovered in 2014 and earlier with ongoing Mitigation Plans or mitigating activities. This represents less than 1% of the total violations discovered in 2014 and earlier.

Caseload
- Sixty-one percent of the ERO Enterprise noncompliance inventory is less than one year old and only 14% is over two years old.
- FRCC, NPCC, RF, and Texas RE have completed processing of all violations with discovery dates prior to 2014.
- There are 202 pre-2014 violations remaining to be processed across MRO, SERC, SPP RE, and WECC. Most of these violations are from federal entities.

Self-Assessment and Self-Identification of Noncompliance
- Registered entities self-identified approximately 80% of new instances of noncompliance in the first two quarters of 2016. The self-identification rate dropped down to 68.1% in Q2 2016. This drop was a result of external audit findings for several affiliated entities.

⁵ Appendix A includes the NERC Enforcement metrics-related graphs and charts.
Self-Logging Utilization

- Sixty-two registered entities are self-logging, an increase of ten in the second quarter of 2016. NERC began a review of the program in Q2 2016 to identify best practices and potential areas of improvement.

Trends in Processing Methods

- Out of 166 instances of noncompliance posing a minimal risk to the reliability of the BPS processed during the second quarter of 2016, the ERO Enterprise disposed of 139 (84%) as Compliance Exceptions. The ERO Enterprise treated the remaining instances of noncompliance posing a minimal risk as Spreadsheet NOPs.
Compliance Assurance

Vegetation-Related Transmission Outages
As a result of the previously mentioned slight increase in vegetation-related outages, in Q2 2016, NERC added vegetation management as an Area of Focus under the Maintenance and Management of BPS Assets risk element in the 2016 ERO Enterprise CMEP Implementation Plan. Specifically, compliance monitoring activities will have additional focus on FAC-003-3 R1, R2, R6, and R7, for Generator Owners and Transmission Owners. FAC-003-3 addresses the risk of transmission outages and associated potential for cascading events due to vegetation growth in the transmission ROW.6

Coordinated Oversight of Multi-Region Registered Entities (MRRE)
During Q2 2016, 11 additional registered entities opted in to the coordinated oversight program, taking the total count of MRRE participation to 188.7 During 2016, the ERO Enterprise will continue to consider opportunities to refine the coordinated oversight program and to improve associated efficiency and consistency while also fulfilling obligations for implementation of the CMEP. Refer to Appendix B, Figure 15 and Figure 16, for additional supporting details on the coordinated oversight program.8

CIP Standards
CIP Version 5
The CIP standards, Cyber and Physical, have completed their transitional stages. The CIP Version 5 standards became effective on July 1, 2016. To help prepare for upcoming compliance monitoring and enforcement activities, NERC conducted a self-certification for these standards in coordination with REs to gain understanding of the scope and impact of the CIP standards to registered entities. The resulting data has helped to provide the ERO Enterprise a means to plan effectively for monitoring engagements in conjunction with the IRA process and to ensure resources are appropriately applied to mitigate cyber and physical security risks. The following summarizes the major activities completed in Q2 2016 to support the final transition phase.

April 2016: CIP V5 Standards Implementation Dates
Since the original CIP Version 5 standards were approved, there have been numerous modifications and updates to the implementation dates. To provide transparency, consistency, and clarity around these dates, NERC issued a spreadsheet that outlines all of the compliance dates for each standard, requirement, part, and subpart of the CIP standards.

July 2016: Self-Certification to CIP Version 5
As FERC postponed the implementation date of the CIP Version 5 standards to July 1, 2016, the previous May 2, 2016, deadline for the self-certification to CIP Version 5 standards moved to July 15, 2016.

6 Per the NERC Glossary of Terms Used in NERC Reliability Standards (NERC Glossary), as of July 1, 2014, ROW is defined as “the corridor of land under a transmission line(s) needed to operate the line(s). The width of the corridor is established by engineering or construction standards as documented in either construction documents, pre-2007 vegetation maintenance records, or by the blowout standard in effect when the line was built. The ROW width in no case exceeds the applicable Transmission Owner’s or applicable Generator Owner’s legal rights but may be less based on the aforementioned criteria.” NERC Glossary at p. 81, available at: http://www.nerc.com/pa/Stand/Glossary%20of%20Terms/Glossary_of_Terms.pdf.

7 This report reflects the total number of registered entities participating in the program regardless of whether the NERC Compliance Registry number is unique or identical across the REs.

Physical Security
The CIP-014 self-certification was completed on May 2, 2016. The resulting analysis of the data has provided the ERO Enterprise an understanding of which registered entities have critical substations and a measure of how third parties participate in validating the registered entity’s risk assessment of applicable substations. NERC has developed a baseline from this information to assess the standard’s effectiveness and the industry’s implementation of the standard. To ensure the protection of entity-sensitive information pertaining to CIP-014, the ERO Enterprise will review any CIP-014-2 compliance evidence off-site.

Compliance Monitoring Oversight
ERO Enterprise Completion of Initial IRAs
NERC and the REs coordinated to develop a plan for completion of initial IRAs for all registered entities. In addition, REs will conduct IRAs of all Reliability Coordinators (RCs), Balancing Authorities (BAs), and Transmission Operators (TOPs) by the end of 2016. NERC will monitor REs’ performance of these assessments.

RC, BA, and TOP
During Q2 2016, REs continued to make progress on initial IRAs for RCs, BAs, and TOPs. REs did not report a change in their project plans for completion or any circumstances that may affect their ability to complete IRAs for these registered functions in 2016. Refer to Appendix B, Figure 12, for region-specific progress for initial IRA completions for RC, BA, and TOP functions within their regional footprints.

Completion Plans for All Registered Entities
RE progress toward completion of IRAs for all registered entities is on track based on regional plans. During Q2, REs did not report a change in their completion plans or other circumstances that may affect progress on these plans. As of Q2 2016, REs plan to complete all initial IRAs as follows: FRCC, MRO, NPCC, and SPP RE by 2016; SERC, Texas RE, and WECC by 2017; and RF by 2019. Completion plans consider the total number of registered entities, registered functions, risk priorities, and regional resources. Additionally, completion plans may be modified due to emerging risks, changes in resources, or other relevant considerations. Appendix B, Figure 13, illustrates the percentage of IRAs completed for all registered entities within the REs across the ERO Enterprise.

NERC Observations of Regional Entity Compliance Monitoring Activities
NERC Compliance Assurance is facilitating and participating in FERC reviews for three registered entity IRAs per RE throughout 2016. To date, FERC and NERC conducted reviews with seven out of the eight REs. During these opportunities, FERC and NERC perform detailed reviews of the regional IRA processes and results and ask questions designed to facilitate review.

Additionally, during Q2, NERC conducted observations for four Operations and Planning and two CIP audits at registered entity locations. Along with attending the on-site audits, NERC staff reviewed the associated IRAs and participated in pre-audit meetings reviewing the IRA process and audit documentation.

Metrics Q2 2016 Updates
ERO Enterprise IRA and ICE Utilization
As shown in Appendix B, Figure 14, of the 197 unique registered entities on the 2016 audit schedule, the REs have completed IRAs for 162 entities, which represents 82% of the registered entities on the audit schedule. Of these 162 IRAs, 47 were completed in 2015, 69 were completed in Q1 2016, and 46 were completed in Q2 2016. In addition, in Q2 2016, REs completed 112 IRAs for registered entities not on the audit schedule. In total, as of the end of Q2 2016, REs have completed a total of 488 IRAs, which represents approximately 34% of registered entities in the United States and Canada.
The REs continue to offer and conduct voluntary ICE activities as part of the risk-based CMEP. As of the end of Q2 2016, the REs have conducted ICE activities for 46 registered entities.
Certification and Registration

Certification
During Q2 2016, NERC and the REs completed one full certification. There are an additional four Certification Reviews or other certifications planned for the remainder of 2016.

Registration
As of June 17, 2016, there have been 60 registration changes including activations and deactivations.
Appendix A - Enforcement

CMEP Metrics
Mitigation Completion Status
Notably, the mitigation of the oldest violations (dating from 2013 and earlier) is over 99% complete. NERC Enforcement continues to monitor these violations and make them a priority for mitigation completion. Additionally, violations discovered in 2014 and 2015 are being mitigated at a satisfactory rate. Both targets should be accomplished by the end of 2016.

Table 1: Mitigation Completion Status

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>Required Mitigation</th>
<th>Ongoing</th>
<th>Progress Toward Goal</th>
<th>Threshold</th>
<th>Target</th>
<th>Progress Since Last Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013 &amp; Older</td>
<td>8546</td>
<td>62</td>
<td>99.27%</td>
<td>100%</td>
<td>100%</td>
<td>0.20%</td>
</tr>
<tr>
<td>2014</td>
<td>966</td>
<td>56</td>
<td>94.2%</td>
<td>85%</td>
<td>90%</td>
<td>3.83%</td>
</tr>
<tr>
<td>2015</td>
<td>733</td>
<td>218</td>
<td>70.26%</td>
<td>70%</td>
<td>75%</td>
<td>14.24%</td>
</tr>
</tbody>
</table>

Age of Noncompliance in ERO Enterprise Inventory
This graph shows the age of noncompliance from all non-federal entities and only federal entities beyond the November 2014 cutoff. There has been almost no change in the distribution of the percentages from the prior quarter.

Figure 1: Age of Noncompliance in the ERO Enterprise Inventory

9 The U.S. Court of Appeals for the District of Columbia Circuit ruled that monetary penalties could not be imposed on federal entities. All previously reported federal entity violations were formerly on hold pending the court’s decision. The pre-court case federal entity violations and the post-court case violations have been separated because routine processing was interrupted.
Appendix A – Enforcement

Average Age of Noncompliance in the ERO Enterprise inventory
Noncompliance has a relatively consistent average age in RE inventories of approximately 10 to 11 months.

Average Age of Noncompliance in the ERO Enterprise’s Inventory
*Excludes violations that were held by appeal, a regulator or a court

Figure 2: Average Age of Noncompliance in the ERO Enterprise Inventory

Number of New Violations Discovered in 2016

Table 2: Violations Discovered in 2016

<table>
<thead>
<tr>
<th>Discovery Month</th>
<th>FRCC</th>
<th>MRO</th>
<th>NPCC</th>
<th>RF</th>
<th>SERC</th>
<th>SPP RE</th>
<th>Texas RE</th>
<th>WECC</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>1</td>
<td>3</td>
<td>16</td>
<td>7</td>
<td>4</td>
<td>9</td>
<td>8</td>
<td>48</td>
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<tr>
<td>February</td>
<td>5</td>
<td>4</td>
<td>19</td>
<td>29</td>
<td>2</td>
<td>7</td>
<td>10</td>
<td>76</td>
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<tr>
<td>March</td>
<td>3</td>
<td>7</td>
<td>11</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>12</td>
<td>46</td>
<td></td>
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<tr>
<td>April</td>
<td>1</td>
<td>1</td>
<td>9</td>
<td>12</td>
<td>8</td>
<td>4</td>
<td>9</td>
<td>65</td>
<td></td>
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<tr>
<td>May</td>
<td>1</td>
<td>1</td>
<td>4</td>
<td>11</td>
<td>2</td>
<td>9</td>
<td>40</td>
<td>9</td>
<td>77</td>
</tr>
<tr>
<td>June</td>
<td>2</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>11</td>
<td>15</td>
<td>46</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>2</td>
<td>11</td>
<td>29</td>
<td>75</td>
<td>70</td>
<td>33</td>
<td>75</td>
<td>63</td>
<td>358</td>
</tr>
</tbody>
</table>

Number of Instances of Noncompliance Discovered Internally vs Externally
Below are two charts. Figure 3 breaks down internal and external discovery method by year, Figure 4 over the last six quarters. There has been a steady increase in internally discovered noncompliance over the last several years.
Figure 3: Percentage of Noncompliance Discovered Internally and Externally by Year

Figure 4: Percentage of Noncompliance Discovered Internally and Externally by Quarter
Self-Logging Utilization
As of June 30, 2016, 62 registered entities are in the self-logging program. NERC also sent out notifications to all REs for a Self-Logging process review that will be conducted in Q3 and Q4 2016.

**Figure 5: Total Registered Entities Self-Logging by Regional Entity**

Relationship of Self-Logging and Compliance Exceptions
The percentage of Compliance Exceptions that are self-logged increased from 12% to 14% last quarter.

**Figure 6: Percentage of Self-Logged Compliance Exceptions since June 2014**
Use of Compliance Exceptions for Minimal Risk Issues

The chart below reviews the number of minimal risk noncompliance processed in Q2 2016. Figure 9 shows the total by RE. There have been no minimal risk violations filed as NOPs or FFTs.
Figure 9: Minimal Risk Noncompliance Processed in Q2 2016 by Region

Dispositional Breakdown by Region

Figure 10: Disposition Type of Noncompliance Processed in Q2 2016 by Region
Most Violated Standards Discovered in 2016

In addition to having the highest frequency of noncompliance in 2016, CIP-004, CIP-005, CIP-006, and CIP-007 are also among the most violated historically. Additionally, PRC-005, FAC-008, and VAR-002 are also commonly violated.

Figure 11: Most Violated Standards Discovered in 2016 by Quarter
Appendix B - Compliance Assurance

Regional Entity Completion of Initial IRAs for BAs, TOPs, and RCs
The chart below identifies the number of IRAs completed, by RE, for RCs, BAs, and TOPs. The chart also considers MRREs within the coordinated oversight program, i.e. if an IRA is conducted by the Lead Regional Entity (LRE) in coordination with an Affected Regional Entity (ARE), then it is considered complete for all the registered entities under each regional footprint.

Figure 12: RC-BA-TOP IRA Completion Status

ERO Enterprise Completion of Initial IRAs
The chart below identifies the distribution of the percentage of IRAs completed for all registered entities within each RE. REs have completed 488 IRAs for the 1435 registered entities as of Q2 2016.10

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10 The 1,435 registered entities is based on registration data available for preparing this report.
Figure 13: Percentage of IRAs Completed for Registered Entities by Region as of Q2 2016

The chart below identifies the number of IRAs completed for registered entities scheduled to be audited in 2016 and the number of IRAs completed for entities outside of the 2016 audit schedule.

Figure 14: 2016 Scheduled Audits vs Number of IRAs Completed in 2016 and in 2015 for Registered Entities on the 2016 Audit Schedule
Coordinated Oversight Program for MRREs

Figure 15 below represents the percentage distribution of the 188 MRREs by LRE, and Figure 16 represents the distribution of MRREs by registered function. The registered entities that opted to join the program are registered for various reliability functions in multiple regions.

![Figure 15: Percentage of MRREs under Coordinated Oversight by LRE](image1)

**Figure 15: Percentage of MRREs under Coordinated Oversight by LRE**

![Figure 16: Registered Entities from All Reliability Functions in Coordinated Oversight](image2)

**Figure 16: Registered Entities from All Reliability Functions in Coordinated Oversight**

11 Each bar represents the number of instances of reliability functions across the ERO Enterprise for registered entities in the MRRE program.
Regional Consistency Reporting Tool

Action
Information

Background
The Regional Consistency Reporting Tool assists the Electric Reliability Organization (ERO) Enterprise in its efforts for continuous improvement in consistency and day-to-day operations. Reports submitted by industry stakeholders are entered directly onto a secure server administered by a third-party provider, EthicsPoint. The provider is under contract to maintain the anonymity of reporters if requested. NERC and the Regional Entities collaborate on solutions to identify issues and post progress on the site.

To date, 21 cases have been submitted via the tool. Of the 21 cases, 17 have been addressed through collaboration between NERC and the Regional Entities to develop responses that either explain how the inconsistency was addressed or provide further information and clarity on the practice in question. Reported cases with an ERO Enterprise response can be found by clicking on the Findings tab.

Three cases are still under review by ERO Enterprise staff working groups. In May, one new case was reported concerning the consistency of the templates used for self-certification and data submittal schedules. The case and possible solutions are currently being examined.