

Background Document: Revisions to Outstanding Violation Risk Factors and Violation Severity Levels

On September 5, 2012, NERC posted a set of Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) for a 45-day comment period through October 19, 2012. Stakeholders may join the ballot pool for this project through October 4, 2012, and a 10-day non-binding poll will be held October 10-19, 2012.

NERC staff recognizes that this project involves many elements, and it has prepared documents for review with the intent of making the review as easy on stakeholders as possible. To that end, NERC has developed this document, which provides background on the project, information on VRF and VSL guidelines and their origins, a tip sheet for using the review worksheets, and a reminder of next steps.

The project seems to present a large amount of content to review, but in fact, many of the worksheets are very straightforward and will not require much time; they are simply split up by standard to facilitate an easier review. While you'll be reviewing the VRFs and VSLs for each standard separately (with the exception of one table that consolidates all non-substantive issues), there is only one comment form and ballot for the entire project.

In mid-September 2012, NERC will host a webinar to review the use of the worksheets and answer questions about the project in general.

Background

NERC standards, legal, and enforcement staffs have been working in coordination with FERC staff to review a set of VRF and VSL assignments for possible revision or further justification. The VRFs and VSLs in need of review have one of two origins:

- **Deferred VRFs and VSLs:** Three years ago, sub-requirement VRFs and VSLs were rolled up with main requirement VSLs, and new guidelines were issued by FERC and NERC with respect to how VRFs and VSLs are assigned. Orders approving standards were issued in the midst of this roll-up process, and FERC deferred approval of the VRFs and VSLs associated with those standards until the new VRF/VSL assignment process was formally approved and implemented. FERC has now reviewed those VRFs and VSLs and, in cases where staff found issues that may be correctable (typos and obvious guideline violations) or that require further justification, they have identified those VRFs and VSLs to give NERC staff a chance to review them and modify them before the Commission issues a final order.

- **VSLs from “Filing 2”:** During the VRF and VSL roll-up process, NERC staff identified existing VSLs that needed modification to make them conform to the roll-up or to other aspects of the FERC and NERC guidelines. NERC staff filed those corrections in two big batches: [Filing 1](#) (filed on March 5, 2010 and updated in a [supplemental information filing on March 21, 2011](#)), and [Filing 2](#) (filed on December 1, 2010). As with Filing 1, FERC staff has reviewed Filing 2 and identified VSLs that could require additional work before an order is issued. FERC is giving NERC staff a chance to address those issues now.

Both VRFs and VSLs are typically posted with standards and subject to review periods and non-binding polls. Because these VRF and VSL changes are not associated with active standards projects, there is no built-in mechanism for ensuring their review by stakeholders, but NERC staff wants to ensure that the proposed revisions or justifications for the outstanding VRFs and VSLs undergo the same industry review as other VRFs and VSLs. Thus, NERC has posted its proposals for addressing the outstanding VRFs and VSLs for a 45-day comment period and 10-day nonbinding poll.

VRF and VSL Guidelines

When developing VRFs and VSLs, NERC and standards drafting teams are required to comply with FERC and NERC guidelines for VRF and VSL assignments. With the exception of some non-substantive changes to the VSLs, the changes and/or justifications NERC proposes with this project are directly related to these guidelines. When reviewing the proposed VRF and VSL assignments, stakeholders should keep the guidelines in mind. If you disagree with a NERC staff proposal, you should describe your concerns in relation to the VRF and VSL guidelines – specifically the FERC guidelines summarized below.

FERC VRF Guidelines¹

In its [May 18, 2007 Order on Violation Risk Factors](#), FERC identified five guidelines it uses to determine whether to approve VRFs submitted for approval. These guidelines, applied in concert with criteria that NERC has filed with FERC as part of the [ERO’s Sanctions Guidelines](#), must be used to determine a VRF for each requirement.

1. **Consistency with the Conclusions of the Final Blackout Report:** The Commission seeks to ensure that Violation Risk Factors assigned to Requirements of Reliability Standards in these identified areas appropriately reflect their historical critical impact on the reliability of the Bulk-Power System. From footnote 15 of the May 18, 2007 Order, FERC’s list of critical areas (from the Final Blackout Report) where violations could severely affect the reliability of the Bulk-Power System includes:
 - Emergency operations
 - Vegetation management

¹ http://www.nerc.com/files/Violation_Risk_Factors.pdf

- Operator personnel training
 - Protection systems and their coordination
 - Operating tools and backup facilities
 - Reactive power and voltage control
 - System modeling and data exchange
 - Communication protocol and facilities
 - Requirements to determine equipment ratings
 - Synchronized data recorders
 - Clearer criteria for operationally critical facilities
 - Appropriate use of transmission loading relief
2. **Consistency within a Reliability Standard:** The Commission expects a rational connection between the sub-Requirement Violation Risk Factor assignments and the main Requirement Violation Risk Factor assignment.
 3. **Consistency among Reliability Standards:** The Commission expects the assignment of Violation Risk Factors corresponding to Requirements that address similar reliability goals in different Reliability Standards would be treated comparably.
 4. **Consistency with NERC's Definition of the Violation Risk Factor Level:** Guideline (4) was developed to evaluate whether the assignment of a particular Violation Risk Factor level conforms to NERC's definition of that risk level.
 5. **Treatment of Requirements that Co-mingle More Than One Obligation:** Where a single Requirement co-mingles a higher risk reliability objective and a lesser risk reliability objective, the VRF assignment for such Requirements must not be watered down to reflect the lower risk level associated with the less important objective of the Reliability Standard.

FERC VSL Guidelines²

In its [June 19, 2009 Order on Violation Severity Levels](#), FERC approved VSLs for 83 standards, directed certain modifications to VSL assignments, and described four guidelines that FERC developed to guide its evaluation of VSLs. These guidelines, applied in concert with NERC's own requirements for drafting VSLs, form the basis for the development of VSLs. All VSLs should comport with the NERC and FERC guidelines.

1. **Violation Severity Level Assignments Should Not Have the Unintended Consequence of Lowering the Current Level of Compliance:** Compare the VSLs to any prior Levels of Non-

² http://www.nerc.com/files/VSL_Guidelines_20090817.pdf

compliance and avoid significant changes that may encourage a lower level of compliance than was required when Levels of Non-compliance were used.

2. Violation Severity Level Assignments Should Ensure Uniformity and Consistency in the Determination of Penalties:

- a. All violations of “binary” type requirements must be consistently assigned the same VSL and using a “Severe” VSL is an acceptable approach.
- b. Do not use ambiguous terms such as “minor” and “significant” to describe noncompliant performance.

3. Violation Severity Level Assignment Should Be Consistent with the Corresponding Requirement: VSLs should not expand on, nor detract from, what is required in the requirement.

4. Violation Severity Level Assignment Should Be Based on a Single Violation, Not on a Cumulative Number of Violations: Unless otherwise stated in the requirement, each instance of non-compliance with a requirement is a separate violation. Section 4 of the Sanction Guidelines states that assessing penalties on a per violation per day basis is the “default” for penalty calculations.

How to Use the Review Worksheets

To facilitate the review of the VRF and VSL changes, NERC has developed “review worksheets” that consolidate all information that stakeholders need to conduct a review. These review worksheets are divided by standard, and the worksheets are further broken down by VRFs and VSLs and requirements. Each review worksheet includes the same basic elements, which will be reviewed here, using the TOP-001-1a review worksheet as an example.

Review of TOP-001-1a—Reliability Responsibilities and Authorities (Filing 2)

<http://www.nerc.com/files/TOP-001-1a.pdf>

VSLs for Requirement R1:

Standard, Requirement	Requirement Language	Lower	Moderate	High	Severe	Comments
TOP-001-1, R1	Each Transmission Operator shall have the responsibility and clear decision-making authority to take whatever actions are needed to ensure the reliability of its area and shall exercise specific authority to alleviate operating emergencies.	N/A	N/A	The Transmission Operator has does not have <u>the responsibility</u> <u>and</u> clear decision-making authority to <u>take whatever actions are needed to</u> ensure reliability in <u>of</u> its area.	The Transmission Operator failed to exercise specific authority to alleviate operating emergencies, in its area.	Citing a Guideline 3 violation, FERC pointed out that responsibility is not specifically referenced in the VSL language and should be incorporated. NERC staff agreed that the VSL language should better match the requirement language and modified the VSLs accordingly.

Original R1 Guideline Explanation in the [December 1, 2010 VSL Filing](#):

In accordance with Guidelines 2 and 3, the VSLs were modified for clarity and consistency with other standards and VSLs and to more closely match the language in the requirement.

- *Guideline 1:* See P. 1011-1013 of the [Guideline 1 Analysis Filing](#).

The review worksheet begins with the title of the standard, including a “Filing 2” or “Deferred” label. Some standards fall into both categories. The title section also includes a link to the standard.

Below the title is a section heading, indicating the requirement being reviewed and whether the review is for a VRF or a VSL assignment. While TOP-001-1a does not include multiple requirements for review, many of the standards do include a mix of requirements and VRFs and VSLs.

The table below the section heading should be your main focus. It includes the requirement language, the currently enforceable (in the case of Filing 2 VSLs) and previously filed (in the case of the Deferred VRFs and VSLs) VRF or VSL assignments, NERC staff’s redline changes, and an explanation in the comments section of FERC’s concern and NERC’s response to that concern. In some cases, NERC agreed with FERC’s concern and made redline changes accordingly. In other cases, NERC supported the drafting team’s original assignment(s) and explained why.

						modified the VSLs accordingly.
<p>Original R1 Guideline Explanation in the December 1, 2010 VSL Filing:</p> <p>In accordance with Guidelines 2 and 3, the VSLs were modified for clarity and consistency with other standards and VSLs and to more closely match the language in the requirement.</p> <ul style="list-style-type: none"> • <i>Guideline 1:</i> See P. 1011-1013 of the Guideline 1 Analysis Filing. <p style="text-align: center;">1</p>						
<p style="text-align: right;">TOP-001-1a</p> <ul style="list-style-type: none"> • <i>Guideline 2:</i> The VSLs comply with Guideline 2. The requirement has graduated VSLs; therefore, Guideline 2a is not applicable. The prior assignment of a binary VSL was revised to provide a level of gradation. The graduated VSLs ensure uniformity and consistency among all approved Reliability Standards in the determination of penalties. Additionally, the VSL DT has reviewed the VSL text and has determined that, as revised, the VSL text is clear, specific and objective and does not contain general, relative or subjective language, satisfying Guideline 2b. Therefore, the text is not subject to the possibility of multiple interpretations of the VSLs and provides the clarity needed to permit the consistent and objective application of the VSLs in the determination of penalties by the Compliance Enforcement Authority. • <i>Guideline 3:</i> In accordance with Guideline 3, the VSL DT has revised the VSL assignments as noted in the redline text to be more consistent with the language of the requirement. As revised, the VSL assignments are consistent with the requirement and the degree of compliance can be determined objectively and with certainty. • <i>Guideline 4:</i> The VSL Assignments comply with Guideline 4, because they are based on a single violation of a Reliability Standard and are not based on a cumulative number of violations of the same requirement over a period of time. 						

In most cases, this table will be the only portion of the worksheet you need to review. If, however, you'd like to explore the history of the VRF or VSL assignment in more detail, original guideline explanations, including links to appropriate filings, are provided. These guideline explanations were filed with the original VRF or VSL proposals, and they have *not* been updated according to NERC staff's new proposals. (NERC staff will update those guideline explanations, where applicable, after it receives stakeholder feedback.)

If you have any comments about VRF or VSL assignment(s), you can submit them in the comment form. If you do so, please cite the standard and requirement in question and support your comment with a FERC or NERC guideline.

If you have any questions about the review worksheets or the project in general, please contact Mallory Huggins at mallory.huggins@nerc.net.

Next Steps

Unless substantive modifications are required after the comment period and non-binding poll, the VRFs and VSLs will be presented to the NERC Board of Trustees for approval and filed with FERC. FERC has requested a filing of no later than February 2013.