

To: NERC Board of Trustees

From: Standards Process Stakeholder Engagement Group

Re: Recommended Enhancements to the NERC Reliability Standards Development Process and Considerations for Future Work

Date: October 10, 2022

The North American Electric Reliability Corporation (NERC) Standards Process Stakeholder Engagement Group (SPSEG) appreciates the opportunity to present its unanimous recommendations to the NERC Board of Trustees (Board) to enhance the ability of NERC's standard development processes to address urgent reliability needs with greater agility, while maintaining the central role of NERC's stakeholders in standards development and consistency with ANSI core principles for fair, open, and balanced standards development.

Consistent with the Board's February 10, 2022 directive, NERC convened the SPSEG to provide feedback on recommendations developed by NERC Staff to enhance NERC's standard development processes, while preserving the core elements of an open and inclusive process. The SPSEG met several times throughout the summer and fall of 2022 to provide feedback on the NERC Staff recommendations, which are included with this document, and develop this list of recommended actions for the Board's consideration.

The SPSEG believes this consensus package of incremental standards process improvements and other actions will allow the standards development process to move forward more quickly. We estimate these changes will save, on average, approximately six months per project. Given the many emerging risks to reliability that NERC faces today, we believe that making the changes proposed is very important. We urge the Board to move these issues forward through the required NERC processes, including seeking stakeholder and Member Representatives Committee input, with due dispatch.

These recommendations fall into the following categories:

- Recommendations to revise Section 300 of the NERC Rules of Procedure, which governs at a high level NERC's reliability standards development processes;
- Recommendations to revise Rules of Procedure Appendix 3A, *Standard Processes Manual*, which provides implementing detail in support of standards development;

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- Recommendations for further work by the Standards Committee to support efficiencies in the administration of the standards development process;
- Recommendations for the Standing Committee Coordination Group to support efforts to improve cross-functional coordination and project prioritization;
- A recommendation for the Reliability and Security Technical Committee (RSTC), to increase transparency in the RSTC processes for developing and endorsing proposed standards projects; and
- A recommendation to initiate a review of the Registered Ballot Body (RBB) criteria.

A brief summary of the basis for each of the SPSEG's recommendations is provided below. Additional supporting information and discussion for the standards procedural recommendations is provided in the attached reference document, prepared by NERC Staff (**Attachment 1**).

Members of the SPSEG

The SPSEG consists of the following representatives from the NERC Board of Trustees, NERC Member Representatives Committee, and NERC standing committees, representing both U.S. and Canadian entities:

- Roy Thilly, SPSEG Chair, NERC Board of Trustees
- Sue Kelly, NERC Board of Trustees
- Rob Manning, NERC Board of Trustees
- Amy Casuscelli, Chair, Standards Committee
- Paul Choudhury, Immediate Past Chair, Member Representatives Committee
- Jennifer Flandermeyer, Vice Chair, Member Representatives Committee
- Greg Ford, Chair, Reliability and Security Technical Committee
- Rich Hydzik, Vice Chair, Reliability and Security Technical Committee
- Roy Jones, Chair, Member Representatives Committee
- Commissioner Matt Schuerger, Member Representatives Committee
- Brian Allen Slocum, Chair, Reliability Issues Steering Committee
- Scott Tomashefsky, Chair, NERC Compliance and Certification Committee

Recommendations to Revise the NERC Rules of Procedure Section 300

The SPSEG recommends that the Board direct NERC Staff to propose revisions to Section 300 of the NERC Rules of Procedure as provided below. A proposed redline document implementing these recommendations is attached as **Attachment 1-A**.

1. NERC Should Revise Section 316 of the NERC Rules of Procedure to Eliminate the Requirement for ANSI Accreditation (NERC Staff Recommendation 1).

The SPSEG recommends removing the requirement that NERC maintain American National Standards Institute (ANSI) accreditation for its standard development processes in Section 316 of the NERC Rules of Procedure. NERC has maintained an ANSI-accredited process as a means of satisfying the statutory requirement, contained in Section 215 of the Federal Power Act, that NERC have rules that provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards. However, the complex regulatory framework in which NERC operates needs greater flexibility than permitted by the ANSI procedural requirements for continued accreditation. For example, NERC has to maintain special processes, outside of the usual ANSI accredited process, to meet its statutory obligations and respond to regulatory directives. Moreover, there is no flexibility to consider changes to the implementing procedural details that may provide for a more efficient use of NERC and industry resources. NERC's current application for recertification has been pending at ANSI for more than three years. Neither NERC nor the North American Energy Standards Board (NAESB) have been willing to file standards for approval as desired by ANSI and, as noted above, certain provisions in the NERC process currently deviate from ANSI procedural requirements for certification in order to comply with FERC directives.

Recognizing the key role of stakeholders in the Electric Reliability Organization model, the SPSEG recommends retaining the core principles of an ANSI-accredited process in Section 304 of the Rules of Procedure and Section 1.4 of the *Standard Processes Manual*, with certain revisions discussed in the next section. The *Standard Processes Manual* establishes and governs NERC's standards development processes. Any changes in the *Manual* must be approved by stakeholders by ballot. This structure ensures that the core ANSI principles will continue to apply.

2. NERC should revise the Rules of Procedure to provide the Board with the authority to direct the development of a Reliability Standard (NERC Staff Recommendation 5).

The SPSEG recommends creating a new process in the Rules of Procedure (in a new Rule 322) to provide the Board with the authority to direct the development of a Reliability Standard where the Board finds that issuing a directive is essential to address an urgent reliability issue. NERC has responsibility under Section 215 of the Federal Power Act to develop, establish, and enforce Reliability Standards that will ensure the reliability of the bulk power system (BPS). This revision will make it clear that NERC has the authority in the Rules of Procedure to meet this fundamental responsibility. The recommended language will provide an important safety valve in the event the usual processes are not working and the reliability of the grid is at risk.

The proposed process provides for openness, transparency, and opportunity for public comment prior to the issuance of the directive and stakeholder involvement in standards development. It is modeled on the process currently in place under Rule 321 that enables the Board to be sure that NERC complies with a regulatory standards directive. That process has never been used, but is essential for NERC to meet its statutory responsibility. The SPSEG believes that new proposed Rule 322 also should not need to be used,

but believes that the Rule must be in place to enable NERC meet its Section 215 responsibilities in extraordinary circumstances.

- 3. NERC should revise the Rules of Procedure to include projects to address Board directives in the scope of Rule 321 (NERC Staff Recommendation 5).**

Related to the above recommendation, the SPSEG recommends revising Rule 321 of the Rules of Procedure, Special Rule to Address Certain Regulatory Directives, to include projects to address Board directives.

Recommendations to Revise the *Standard Processes Manual*

The SPSEG recommends that the Board direct NERC Staff to submit a request to revise Rules of Procedure Appendix 3A, *Standard Processes Manual*, as provided below. A redline implementing these recommendations is attached as **Attachment 1-B**.

- 1. NERC should revise Section 1.4 of the *Standard Processes Manual* to reflect that NERC's process is modeled on the ANSI Essential Requirements but is separately governed and not bound by ANSI's procedural benchmarks and certification requirements as explained above (NERC Staff Recommendation 1).**

Consistent with the recommended revision to Section 316 of the Rules of Procedure, the SPSEG recommends revising Section 1.4 of the *Standard Processes Manual* to reflect that NERC's process is modeled on the ANSI Essential Requirements and those core principles form the framework for NERC's process, but there are several differences in how they are implemented due to NERC's statutory and regulatory responsibilities. Conforming changes to remove reference to ANSI requirements would be required in other sections as well (e.g., Sections 10.0, 13.0, 16.0).

- 2. NERC should revise Section 4.2 of the *Standard Processes Manual* to clarify what it means for Standard Authorization Requests (SARs) to have had some vetting in industry and are thus eligible for informal posting (NERC Staff Recommendation 2d).**

The SPSEG recommends revising this section to clarify that SARs that have had some vetting in industry includes those that are endorsed by the NERC technical committees (e.g., Reliability and Security Technical Committee) or other organizations identified by the Standards Committee for that purpose (e.g., pre-qualified organizations that already can submit compliance guidance). The SPSEG also recommends including SARs to address Board directives in the scope of SARs that may be posted for informal comment, consistent with recommended revisions to the Rules of Procedure.

- 3. NERC Should Revise Section 4.12 of the *Standard Processes Manual*, and make other conforming changes as necessary, to create a tiered structure for comment periods (NERC Staff Recommendation 3d).**

The SPSEG recommends creating a tiered comment period structure, under which initial formal postings and ballots would be posted for a minimum of 45 days, with shorter minimum comment periods for

subsequent postings when the issues are likely to have narrowed. Drafting teams are free to choose longer periods if it would aid in stakeholder review, and the Standards Committee's ability to direct longer or shorter periods is not changed.

4. NERC Should Revise Section 4.13 of the *Standard Processes Manual* to Eliminate the Requirement for a Final Ballot to Confirm Approval (NERC Staff Recommendation 3c).

The SPSEG recommends revisions to remove the final ballot and provide that the standards process would be concluded when the team has made a good faith effort at resolving objections, is not making any substantive changes (as that term is presently defined in the *Standard Processes Manual*), and the previous ballot achieved the requisite ballot body approval. Public notice would be provided. Conforming changes would be required to other sections of the *Standard Processes Manual* to remove reference to the final ballot, including deletion of current Section 4.14.

5. NERC Should Revise Section 7.2 to Allow the Standards Committee to Appoint ERO Enterprise Staff to an Interpretation Drafting Team (NERC Staff Recommendation 4).

The SPSEG recommends giving the Standards Committee the *option* to appoint ERO Enterprise Staff to an interpretation drafting team, in lieu of or in addition to the usual stakeholder participation, to facilitate timely development of interpretations.

6. NERC Should Revise Section 16.0 to include Board Directives in the Scope of Circumstances for which the Standards Committee may Grant a Standards Process Waiver (NERC Staff Recommendation 5).

The SPSEG recommends making a conforming change to Section 16.0, Waiver of the *Standard Processes Manual* to include Board directives, consistent with the recommendation to create a new process by which the Board may issue such directives.

Recommendations for the Standards Committee

The SPSEG has several recommendations for the Standards Committee related to the efficient administration of the standards development process, including how it applies existing rules in the *Standard Processes Manual*, as follows.

1. The Standards Committee should appoint a single drafting team to address both the SAR and standard development phases for a project (NERC Staff Recommendation 2b).

The SPSEG recommends appointing a single drafting team, at the outset, to handle both phases of standards development, consistent with the *Standard Processes Manual*. This would create the expectation of continuity, enable entities to better plan their resource commitments, and avoid unnecessary process steps which add delay.

2. The Standards Committee should provide guidance to drafting teams on the role of the SAR in the standards development process (NERC Staff Recommendation 2c).

The SPSEG recommends that the Standards Committee advise drafting teams of the need to clearly identify in the SAR the issues motivating a particular project, but not to attempt to limit the potential outcomes of the standard development process through overly prescriptive SAR language.

3. The Standards Committee should implement certain changes in how it administers current processes to facilitate the efficient administration of the SAR phase for projects eligible to be posted for informal comment (NERC Staff Recommendation 2d).

The SPSEG recommends the Standards Committee: (1) create a presumption that all SARs endorsed by the RSTC have had some industry vetting under Standard Processes Manual Section 4.2 and should be posted for informal comment. The same presumption should apply to SARs submitted by other industry stakeholder groups such as the list of organizations that are pre-qualified to submit compliance guidance;¹ and (2) clarify that re-acceptance of SARs is not required for SARs that are posted for informal comment and whose scope is not materially changed in response to comments.

4. The Standards Committee should implement certain changes in how it administers current processes to facilitate the efficient administration of the SAR phase for projects that must be posted for formal comment (NERC Staff Recommendation 2f).

The SPSEG recommends the Standards Committee: (1) refer any questions regarding the technical support for a proposed SAR to the RSTC or hold a comment period for that purpose, consistent with the *Standard Processes Manual*; and (2) provide guidance to drafting teams to assess whether a project has sufficient stakeholder support, including developing a list of uniform questions to be used during comment periods for that purpose.

5. The Standards Committee should revise its Charter, and adopt other practices, to facilitate the efficient administration of the standards process generally (NERC Staff Recommendations 3a, 3b).

The SPSEG recommends the Standards Committee revise its Charter to allow expanded use of the Executive Committee to keep progress advancing on projects in-between scheduled meetings of the full Committee consistent with an open and transparent process, including revisions to address the following:

- Expanding the authority of the Executive Committee to authorize administrative actions (e.g., posting for supplemental drafting team nomination periods and posting for supplemental SARs for projects in active development);

¹ The SPSEG also recommends revisions to Section 4.2 of the *Standard Processes Manual* to codify this presumption in the Rules of Procedure.

- Expanding the authority of the Executive Committee to approve procedural actions relating to supplemental or revised SARs postings during the standard drafting phase, as well as the authority to allow shortened informal comment periods for such SARs;²
- Clarifying that the Chair and Vice Chair are voting members of the Executive Committee;
- Allowing for the election of up to seven members to the Executive Committee; and
- Clarifying that all actions of the Executive Committee must be open to the public; documented in meeting minutes; and reported out to the full Standards Committee at its next regularly scheduled meeting.

The SPSEG recommends that the Standards Committee consider expanded use of the consent agenda for noncontroversial items for its full Committee meetings.

The SPSEG also recommends that the Standards Committee consider using the Section 16.0 Waiver procedure more broadly than it has been currently used, to shorten the usual processes for making changes to standards where the change has already been vetted through the process and, if made, would advance the goal of producing consensus, quality standards.

6. The Standards Committee should revise its guidance for drafting teams with respect to the development of implementation guidance and compliance elements (NERC Staff Recommendation 6).

The SPSEG recommends the Standards Committee revisit drafting team guidance materials to provide drafting teams with flexibility on whether they will develop any implementation guidance during standards development or after, and to encourage drafting teams to work closely with NERC Staff on the development of Violation Risk Factors/Violation Severity Levels.

Recommendations for the Standing Committee Coordinating Group

The SPSEG has several recommendations for the Standing Committee Coordinating Group (SCCG), which consists of representatives from the Compliance and Certification Committee, Personnel Certification Governance Committee, Reliability Issues Steering Committee (RISC), RSTC, and Standards Committee. These recommendations are intended to draw upon the cross-functional expertise of this group and preserve vital feedback loops across the different functional areas, as follows.

1. The SCCG should review the SAR Form and recommend revisions to enhance the role of this important tool in the standards process (NERC Staff Recommendation 2a).

Consistent with the SAR-related recommendations for the Standards Committee, the SPSEG recommends the SCCG review the SAR Form and recommend revisions that would focus on: (1) the reliability problem or need for a given project; (2) the proposed scope of work, without prescribing the specific means for

² In the alternative, the Standards Committee could adopt a delegation resolution to that effect.

achieving the desired outcome; and (3) information to aid in project prioritization, such as applicable directives, RISC prioritization, risk areas identified in reliability assessments, or other relevant information.

2. The SCCG should perform a regular review of new standards projects to aid in effective project prioritization (NERC Staff Recommendation 2g).

The SPSEG recommends that the SCCG perform a quarterly review of new standards projects and prioritization, and through its work, recommend any changes that would ensure that: (1) these prioritization processes are effective and sustainable; (2) NERC and industry are using their standard development resources effectively to address, in a timely manner, the most urgent reliability concerns; (3) projects are proceeding in accordance with expectations and prioritization; and (4) feedback loops are maintained across the different NERC functional areas (technical, standards, compliance monitoring and enforcement).

3. The SCCG should work to expand participation in the Reliability Standards Quality Review process (NERC Staff Recommendation 7).

The SPSEG recommends the SCCG explore ways to increase the pool of stakeholders available to perform quality reviews of draft Reliability Standards, with an emphasis on adding expertise in compliance.

Recommendation for the RSTC

1. The RSTC should enhance its process for endorsing draft SARs prepared by its subcommittees and working groups by increasing transparency and stakeholder awareness of this process (NERC Staff Recommendation 2e).

Consistent with previous SAR-related recommendations, the SPSEG recommends the RSTC enhance transparency and awareness of its SAR endorsement process so stakeholders will feel confident those SARs have had some vetting in industry already and may be posted for informal comment periods under the *Standard Processes Manual*.

Recommendation for RBB Review

1. NERC Staff should initiate a review of the Registered Ballot Body criteria (NERC Staff Recommendation 8).

The SPSEG recommends that NERC Staff initiate a broad review of the current Registered Ballot Body Criteria (Appendix 3D to the Rules of Procedure) for continued fairness, openness, inclusivity, and balance in standards voting. Such a review is appropriate in light of changes to the BPS and should be performed with consideration to historical participation patterns among the current segment classes.

Conclusion

The SPSEG appreciates the opportunity to provide these recommendations to the Board regarding standards process enhancements and other work to advance NERC's critical reliability mission.

Attachments

Attachment 1: *Enhancing NERC Standard Processes: NERC Staff Recommendations (Oct. 2022)*

Attachment 1-A: Draft Redline, NERC Rules of Procedure Section 300

Attachment 1-B: Draft Redline, NERC Rules of Procedure Appendix 3A, *Standard Processes Manual*