

Compliance Application Notice – 0010

Implementation of “Annual” in Reliability Standards Requirements

Posted: April 19, 2011

Revised: November 16, 2011

Primary Interest Groups

Compliance Enforcement Authority (CEA)¹

NERC

Regional Entity

Registered Entities subject to reliability standards containing a requirement to repeat some performance on an annual basis (annual requirement)

Issue: How is a CEA to assess whether a registered entity met the “annual” requirement of a reliability standard?

This CAN provides instruction to CEAs on how to assess compliance when a standard requires an “annual” activity.

Background

The reliability standards contain numerous requirements for registered entities to perform an action “annually.” Without clear guidance, registered entities determined their own implementation of the term “annual,” which is contained in a multitude of standards, without certainty that the implementation of the requirements established compliance with the applicable reliability standards. The intent of most annual requirements is to ensure that entities perform a particular task on a regular basis, with an established maximum interval between the occasions when the task is performed. Intervals that are too long affect the ability of the activity to protect reliability.

Compliance Application

NERC has established clarity for the implementation of annual requirements as well as parameters for CEAs to assess compliance regarding the registered entity’s implementation of an annual requirement. The registered entity’s implementation of annual requirements may apply to standards that require an annual action or event, unless a standard contains a definition of annual. In cases where the standard contains a definition of the term “annual” or “annually,” that definition remains and is applicable to that standard. In cases where the standard specifies how annual requirements are implemented, that language remains and is applicable to that standard. This CAN does not supersede or change any language contained in a standard.

¹ Compliance Enforcement Authorities include ERO auditors, investigators, enforcement personnel or any person authorized to assess issues of concern, potential non-compliance, and possible, alleged or confirmed violations of NERC Reliability Standard requirements.

In all standards where the term “annual” is not defined, CEAs are to determine if the registered entity established its own implementation of annual requirements within the parameters provided below. CEAs are instructed to look for a registered entity’s documented implementation of annual requirements as the basis for determining compliance. CEAs are to verify whether a registered entity documented either one implementation of annual across all standards that do not specify how an annual requirement is implemented, or an implementation for each individual standard.

CEAs are to verify that a registered entity implemented annual requirements pursuant to the guidelines below:

- a) Within a Calendar Year, beginning on January 1 and ending on December 31 (Calendar Year):

In this option, CEAs are to verify that the activity or event is conducted at least once every Calendar Year. A best practice is that the activities or events should not be too far apart. For example, a registered entity’s documentation may state that there should be no more than 15 months between the events required by the standard.

Or:

- b) Rolling 12 months: The activity or event is conducted at least once within the last 12-month period.

Or:

- c) CEAs are to verify whether registered entities have documented another implementation of annual² requirements along with procedures that define that implementation. However, CEAs are to verify that any alternative documented method demonstrates that the required activity was conducted at least once every Calendar Year.

Regardless of the registered entity’s documented implementation of annual, that implementation will not supersede any requirement stated in the standard.

This implementation of annual will be in effect throughout the ERO, will supersede any prior guidance, and is in effect until the term “annual” is defined in each standard.

Effective Period for CAN

This revised CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance from April 19, 2011, regardless of the start date of the violation. It will remain

² For example, a registered entity may define “annual” as “at least once within the last 12-month period” and may include a grace period of two months. In this situation, the activity or event is still to be conducted at least once every Calendar Year.

in effect until such time that a future version of a FERC or other applicable government authority approved standard or interpretation becomes effective and addresses the specific issue contained in this CAN.

For any enforcement action in process and for audits that have been initiated,³ a CEA will apply the appropriate discretion, including consideration of the specific facts and circumstances of the non-compliance, in determining whether to assess compliance pursuant to this CAN.

Evidence of Compliance

CEAs are to assess compliance based on an entity's implementation of one of the below situations:

- A CEA is instructed not to find noncompliance or a possible violation if a registered entity is following its own documented implementation of annual⁴ and its own documented implementation plan for annual requirements.
- A CEA is instructed to look for evidence that a registered entity has and adheres to its own documented implementation of annual and its own documented implementation plan for annual requirements. If an entity does not adhere to its implementation, a CEA is instructed to find noncompliance or a possible violation, *unless* the entity conducts the annual activity at least once every Calendar Year.
- If a registered entity does not have a documented implementation of annual and its own documented implementation plan for annual requirements, a CEA is to assess the entity's compliance based upon Option A contained above: that the activity or event is conducted at least once each Calendar Year.

A CEA is instructed not to find noncompliance or a possible violation if the activity or event is conducted at least once: (1) within each Calendar Year OR (2) within a documented rolling 12-month period.

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³ "Initiated" means that a registered entity has received notification of the upcoming audit.

⁴ Provided that, as indicated above, the registered entity's definition of annual causes the activity or event to occur at least once every Calendar Year.

This document is designed to convey compliance monitoring instruction to achieve a measure of consistency among auditors and Compliance Enforcement Authorities. It is not intended to establish new requirements under NERC's Reliability Standards or to modify the requirements in any existing NERC Reliability Standard. Compliance will continue to be assessed based on language in the currently enforceable NERC Reliability Standards. This document is not intended to define the exclusive method an entity must use to comply with a particular standard or requirement, or foreclose a registered entity's demonstration by alternative means that it has complied with the language and intent of the standard or requirement, taking into account the facts and circumstances of a particular registered entity. Implementation of information in this document is not a substitute for compliance with requirements in NERC's Reliability Standards.

Revision History

Posted Date	Action	Revision
April 19, 2011	Posted Final CAN	
November 16, 2011	Posted Revised CAN	Revised target audience to CEAs

RETIRED