

Compliance Application Notice – 0012

Completion of Periodic Activity Requirements During Implementation Plan

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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.

Primary Interest Groups

Compliance Enforcement Authority (CEA)¹

NERC

Regional Entity

Registered Entity

Background

CAN-0012 was revised based on the NERC CEO High Level Review of CAN-0008.

Issue: Under what circumstances should a CEA verify completion of a periodic activity during the implementation plan of a new or revised standard?

For the purpose of aiding a CEA, this CAN provides instruction for assessing whether registered entities performed a periodic action in accordance with the implementation plan for a standard.

Compliance Application

In the event that a standard that is subject to an implementation plan, which contains a requirement of a periodic activity, the implementation plan may establish when the first occurrence of the periodic activity was to be completed. In that case, CEAs are to verify that the registered entity has completed the activity at least once before the enforceable date of the standard. However, in the event that the standard or implementation plan is silent with regard to completing a periodic activity, CEAs are to verify that the registered entity has performed the periodic activity within the standard's timeframe after the enforceable date.

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 Standards and requirements.

Example 1

An implementation plan of a standard stated that an annual activity had to be completed before the enforceable date of January 1, 2011.² In the event that, on December 1, 2011, a registered entity completed a self-certification for this standard, the CEA is to have looked at the date that it completed the activity.

1. If the registered entity had not performed the activity at least once on or before the enforceable date of January 1, 2011, the CEA is to find a Possible Violation of the standard from January 1, 2011 until the date the registered entity completed the activity.
2. If the registered entity performed the activity on or before January 1, 2011, the CEA is to determine that the entity did not have a noncompliance with the standard. Because the requirement related to an annual activity, the registered entity would have had until December 31, 2011 to complete the recurring activity.

Example 2

An implementation plan of a standard was silent regarding whether an annual activity had been completed before the enforceable date of January 1, 2011. In the event that, on December 1, 2011, a registered entity completed a self-certification for this standard, the CEA is to have looked at the date that it completed the activity.

1. If the registered entity completed the required periodic activity within the first calendar year after the enforceable date of January 1, 2011, the CEA is not to find a Possible Violation of the standard because the registered entity performed the periodic activity within the standard's timeframe after the enforceable date.

Effective Period for CAN

This CAN is to be used by CEAs for assessing compliance from the date the CAN is posted as final on the NERC Web site, regardless of the start date of any non-compliance or Possible Violation. CEAs are to use professional judgment, including consideration of the specific facts and circumstances of the non-compliance, to determine whether this application should be applied for registered entities that have been notified of an audit or are in the process of transitioning to compliance activities consistent with this CAN. This version of the CAN supersedes all prior communications and will remain 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, a FERC order provides direction for an alternative compliance assessment, or a future High Level Review remands the CAN for modification or withdrawal.

² In cases where the standard contains a definition of the term "annual" or "annually," that definition remains and is applicable to that standard. In all standards where the term "annual" is not defined, CEAs are to assess compliance by determining the entity's definition of annual within the parameters provided in CAN-0010 Definition of Annual, provided the action or activity was performed prior to the registered entity's Effective Date for the Standard.

Evidence of Compliance

Evidence when an implementation plan states a performance date

In the event that a standard is subject to an implementation plan that addresses a time period to conduct a periodic activity before the enforceable date, CEAs are to verify that the registered entity has completed the activity at least once before the enforceable date of the standard. However, CEAs seeking to determine completion of the periodic activity prior to the enforceable date should allow registered entities several options, including, if necessary, good faith estimates of performance.

For periodic activities that may be conducted prior to the enforceable date of the standard, the types of evidence that CEAs are to consider include the following:

- (1) material evidence of actual performance of the periodic activity, or
- (2) a simple representation by the registered entity regarding the last known performance date, or
- (3) the registered entity's good faith approximation of the previous periodic activity date, based on the best available information.

An entity that does not have records of completion of periodic activities should also describe the basis for its representation of an actual or estimated date. The basis can refer to the registered entity's actual knowledge, approximate periodicity of performance practices, or any other reasonable justification.

Evidence when an implementation plan is silent regarding a performance date

In the event that the standard is silent with regard to completing a periodic activity, CEAs are to verify that the registered entity has performed the periodic activity within the standard's timeframe after the enforceable date. Such examples of evidence may include, but is not limited to, data, documents, documentation, logs, and records.

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Revision History

Posted Date	Action	Revision
July 18, 2011	Posted Final CAN	
November 16, 2011	Posted Revised CAN	Revised target audience to CEAs
June 15, 2012	Posted Revised CAN	Revised based on CAN-0008 High Level Review