

# **Formulating and Enforcing Reliability Standards**

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## NERC Standards

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- Developed by users, owners and operators
  - Formal interpretations go through stakeholder process
- Standards Drafting Teams
- Registered Ballot Body votes
- NERC Board Approves
- FERC (and Canadian Provinces) have final say to make standards enforceable
  - Section 215(d)(2) – FERC shall give “due weight” to the technical expertise of the ERO but shall “not defer” with respect to the effect of the standard on competition.

## NERC Standards

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- Standards listed at:  
[http://www.nerc.com/files/Reliability\\_Standards\\_Complete\\_Set\\_1Dec08.pdf](http://www.nerc.com/files/Reliability_Standards_Complete_Set_1Dec08.pdf)
- Many standards under development or being modified at direction of FERC:  
[http://www.nerc.com/filez/standards/Reliability\\_Standards\\_Under\\_Development.html](http://www.nerc.com/filez/standards/Reliability_Standards_Under_Development.html)

## NERC Standards

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- Version 0 standards are not clear of ambiguity – need ‘interpretation’ for enforcement
- What is needed to comply with the standard?
- Process for FERC approval of standards – FERC ‘directs’ changes
  - What if standards drafting team and ballot body disagrees?
- Are there too many standards?
- Are they the right standards?

## NERC Standards

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- VSL and VRFs – FERC does not consider these part of the standards
- How should these be developed?
- Board approved a bifurcated process where stakeholders will vote (non-binding) and NERC Staff will develop recommendations for the NERC Board

# NERC Standards

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- Adequate level of reliability
  - [http://www.nerc.com/files/Adequate\\_Level\\_of\\_Reliability\\_Definition\\_05052008.pdf](http://www.nerc.com/files/Adequate_Level_of_Reliability_Definition_05052008.pdf)
- Cost effectiveness
  - The definition of adequate level of reliability does not mention any specific measure of “cost effectiveness” because costs versus benefits, including societal benefits, can only be determined by the individual users, owners, and operators. They will have different perspectives on what is “cost effective” for them, and they will exercise their judgments by participating in the standards drafting process, and ultimately, when they cast their ballots to approve or reject a standard. A goal of the standards is to achieve an adequate level of reliability across North America. For various reasons, some users, owners or operators may choose to plan and operate their portion of the System to achieve a level of reliability that is above the standards.

# Status of Compliance Program

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- Backlog
  - Over 1,800 violations since June 18, 2007 (as of 12/31) but less than 150 violations filed with FERC
  - Processing continues to be slow
  - Region → NERC → FERC
- Consistency Issues
  - Very few 2008 violations (NERC had discretion for 2007 violations) with fines
    - Filed violations listed at <http://www.nerc.com/filez/enforcement/index.html>
  - Range of penalties is broad, especially when on a per day basis

# Penalties

## Base Penalty Amount Table (\$/Violation/Day)

Violation Risk Factor	Violation Severity Level							
	Lower		Moderate		High		Severe	
	Range Limits		Range Limits		Range Limits		Range Limits	
	Low	High	Low	High	Low	High	Low	High
Lower	\$1,000	\$3,000	\$2,000	\$7,500	\$3,000	\$15,000	\$5,000	\$25,000
Medium	\$2,000	\$30,000	\$4,000	\$100,000	\$8,000	\$200,000	\$10,000	\$335,000
High	\$4,000	\$125,000	\$8,000	\$300,000	\$12,000	\$825,000	\$20,000	\$1,000,000

Sanction Guidelines of the North American Electric Reliability Corporation (Appendix A to Appendix 4B to NERC's Rules of Procedure)

[http://www.nerc.com/files/Appendix4B\\_Sanctions\\_Guidelines\\_Effective\\_20080115.pdf](http://www.nerc.com/files/Appendix4B_Sanctions_Guidelines_Effective_20080115.pdf)

## Can System Be Improved?

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- At present there is one process for all alleged violations whether ‘felonies,’ ‘misdemeanors,’ or ‘administrative violations’
- Every violation takes a great deal of time to process
- Little precedent
- System depends on ‘plea bargains’
- Need ‘traffic ticket’ process

## Other Issues

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- NERC Budget Order – FERC raises issues of staffing and functions of compliance and enforcement program, standards program and elimination of readiness evaluation program
  - *North American Electric Reliability Corp.*, 125 FERC ¶ 61,015 (2008), *order granting clarification*, 126 FERC ¶ 61,021 (2009)
  - Feb. 27, 2009 Request for Data (Docket No. RR08-6-002)
- CIP Issues – should there be different procedures for cyber emergencies?
- Role of Canadian provinces

## Are We More Reliable?

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- Yes but backlog is preventing information from being public – need feedback into standards process
- Is the emphasis right?
  - Jury is out
  - Corrective actions coming from investigations
    - [http://www.nerc.com/fileUploads/File/Events%20Analysis/A-2008-06-26-01\(1\).pdf](http://www.nerc.com/fileUploads/File/Events%20Analysis/A-2008-06-26-01(1).pdf)
    - <http://www.nerc.com/fileUploads/File/Events%20Analysis/A-2008-06-26-02.pdf>
    - <http://www.nerc.com/fileUploads/File/Events%20Analysis/A-2008-06-26-03.pdf>
  - How are compliance violations impacting reliability?
  - Are we looking at the right standards?
  - Do we have the right standards?