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WHITEPAPER

NERC Reliability Compliance Programs (RCP)

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Introduction

This whitepaper outlines key elements of an effective North American Electric Reliability Corporation ("NERC") Reliability Compliance Program ("RCP") for Electric Utilities, including the recommended organizational structure. It offers guidance to develop a strong Compliance Program, fostering a proactive compliance culture and priority mindset within organizations.

The perspectives shared herein are informed by AESI Acumen Engineered Solutions International Inc.'s/ AESI-US, Inc.'s ("Acumen") extensive expertise in the electrical industry. This expertise is derived from hands-on management of Compliance Programs for electric utilities, auditing numerous registered entities in North America, crafting customized Compliance Programs for diverse clients, and leveraging industry best practices and proven organizational oversight. These insights have been honed over time, particularly since the initiation of mandatory and enforceable standard audit programs in other jurisdictions throughout North America.

Drawing from industry experience, it is widely acknowledged that an organization's Compliance Program should, at a minimum, achieve the following pivotal objectives:

- Demonstrate a proactive compliance stance concerning all relevant NERC/Regional Entity reliability standards and supplemental criteria requirements.
- Attain and sustain compliance with all approved reliability standards and regional criteria within its purview.
- Incorporate the perspectives endorsed by the US Federal Energy Regulatory Commission ("FERC"), which have garnered support from NERC, the Regions, and Canadian Regulators. These perspectives, as reiterated below, pertain to demonstrating a proactive posture toward compliance, in line with FERC Policy Statements on Enforcement.

FERC Policy Statements

1. Does the company have an established, formal program for internal compliance?

2. Is it well documented and widely disseminated within the company?

3. Is the program supervised by an officer or other high-ranking officials?

4. Does the compliance official report to or have independent access to the chief executive officer and/or the board of directors?

5. Is the program operated and managed so as to be independent?

6. Are there sufficient resources dedicated to the compliance program?

7. Is compliance fully supported by senior management? For example, is senior management actively involved in compliance efforts and do company policies regarding compensation, promotion, and disciplinary action take into account the relevant employees' compliance with Commission regulations and the reporting of any violations?

8. How frequently does the company review and modify the compliance program?

9. How frequently is training provided to all relevant employees?

10. Is the training sufficiently detailed and thorough to instil an understanding of relevant rules and the importance of compliance?

11. In addition to training, does the company have an ongoing process for auditing compliance with Commission regulations?

12. How has the company responded to prior wrongdoing?

13. Did the company take disciplinary action against employees involved in violations? When misconduct occurs, is it a repeat of the same offense or misconduct of a different nature?

14. Does the company adopt and ensure enforcement of new and more effective internal controls and procedures to prevent a recurrence of misconduct?

- It should meet the stipulation outlined in section 1B2.1 of the FERC Penalty Guidelines, which enumerates the seven (7) factors evaluated by both NERC and FERC to assess the effectiveness of an organization's compliance program.

The integration of "risk-based" compliance monitoring is crucial for Electric Utilities striving to establish a robust Internal Compliance Program (ICP). This approach entails tailoring the scrutiny applied during compliance monitoring to a registered entity based on the risk it poses to the reliability of the Bulk Electric System (BES). A key element of effective "risk-based" compliance audits is the inclusion of performance-based auditing. Another critical aspect involves a comprehensive review and testing of the registered entity's programs and procedures, ensuring that the compliance program's objectives extend beyond documentation to active and effective implementation.

Regional Entities are increasingly adopting the risk-based approach to compliance monitoring. To gauge an entity's risk to reliability, a risk assessment is conducted, identifying factors related to activities, behaviors, and qualities that warrant heightened compliance monitoring. These factors, including the organization's RCP, are crucial in determining the extent of risk.

Acumen emphasizes the necessity for Electric Utilities to maintain a robust compliance program. This not only streamlines ongoing efforts to demonstrate compliance but also diminishes the perceived or assessed risk an organization may pose to the reliability of the Bulk Electric System (BES).

Reliability Compliance Program Overview

A robust RCP or ICP should encompass the following essential elements:

- Clear identification of the intended audience, scope, and applicability
- A well-defined documentation hierarchy
- Governance program review and approval requirements
- Overview of functional registration and the regional reliability framework
- Corporate organizational structure
- Precise assignment of roles and responsibilities
- Program review and oversight mechanisms
- Established processes and procedures for compliance assessment
- Systematic tracking of requirement processes
- Processes for self-reporting breaches
- Planning and tracking of mitigation implementation
- Monitoring and management of reliability standard changes
- Comprehensive training initiatives
- Cultivation of a culture of compliance in employee conduct
- A commitment to continuous improvement
- Implementation of both internal and external audits

A robust and enduring RCP necessitates endorsement at all organizational levels, with established corporate priorities akin to safety and specific performance metrics for Senior Management. This approach fosters a culture of compliance and ensures adequate resources for the program.

A crucial component is the formulation of a RCP Policy, designed to instill and reinforce a culture of compliance throughout the organization, from Senior Management to the shop floor. This policy encourages employees to proactively prevent, detect, and self-report potential breaches without fear of reprisal, provided they acted appropriately. It also delineates disciplinary actions for inappropriate behavior and encourages the identification of areas for improvement.

Such a comprehensive Compliance Program contributes to overall reliability improvement, mitigates the risk of penalties for violating mandatory standards, and facilitates prompt remediation of potential breaches. The organizational structure for reliability compliance is foundational to achieving these objectives and implementing the essential elements of an effective RCP.

The bedrock for a thriving and enduring RCP, meeting the stated objectives and effectively incorporating key elements of a strong RCP, is rooted in an overarching organizational structure dedicated to reliability compliance.

Organizational Structure

Organizations, Accountabilities and Authorities

In structuring the RCP, a pivotal approach involves assigning compliance responsibilities within existing business areas. Figure 1 below delineates the executives, directors, and managers within a typical entity who bear compliance accountabilities, accompanied by brief descriptions of their roles. Utilizing the Craft of Management principles is essential for crafting specific management role definitions for the RCP. These definitions should articulate the key responsibilities and authorities required for success in each role. In the realm of the entity's reliability standards compliance, each role should possess defined authority, aligned with Craft of Management principles, over pertinent aspects of the company. This ensures the entity fulfills its reliability standards compliance obligations effectively.

Three types of authorities should be applied to specific roles for an RCP, as follows:

1. **Audit Authority:** This role is authorized to access information about the actions of others (within the scope of accountability). The Audit Authority is empowered to instruct others to align their actions with a specific policy or strategy. If the others concur, they proceed accordingly. In case of disagreement, others must escalate the matter to the manager for resolution. In the context of reliability standards compliance, this authority is granted to individuals responsible for compliance with a specific standard or compliance across the organization.

2. **Service Getting Authority:** This role possesses the authority to request services from others who are obliged to provide the service, although not necessarily immediately. In the context of reliability standards compliance, this authority allows others, for instance, to seek reports or feedback on the compliance status of reliability standards from accountable individuals across the company.

3. **Coordinating Authority:** This role can convene a meeting where others are mandated to attend. The Coordinating Authority can attempt to persuade others to align with his or her policy or strategy, but compliance is not obligatory. If others do not align, the Coordinating Authority must escalate the matter to the manager.

A robust and sustainable RCP hinges on an organizational structure that commences with staunch support for a culture of compliance from top senior management and culminates in all personnel actively contributing to the maintenance of a robust compliance posture. To ensure effectiveness, it is advisable for Electric Utilities under NERC compliance to adopt an RCP organizational structure aligned with industry best practices. This structure should involve the assignment of compliance accountabilities within existing business areas and the establishment of a central enterprise-wide reliability compliance group, each with clearly defined responsibilities, as illustrated and detailed below:
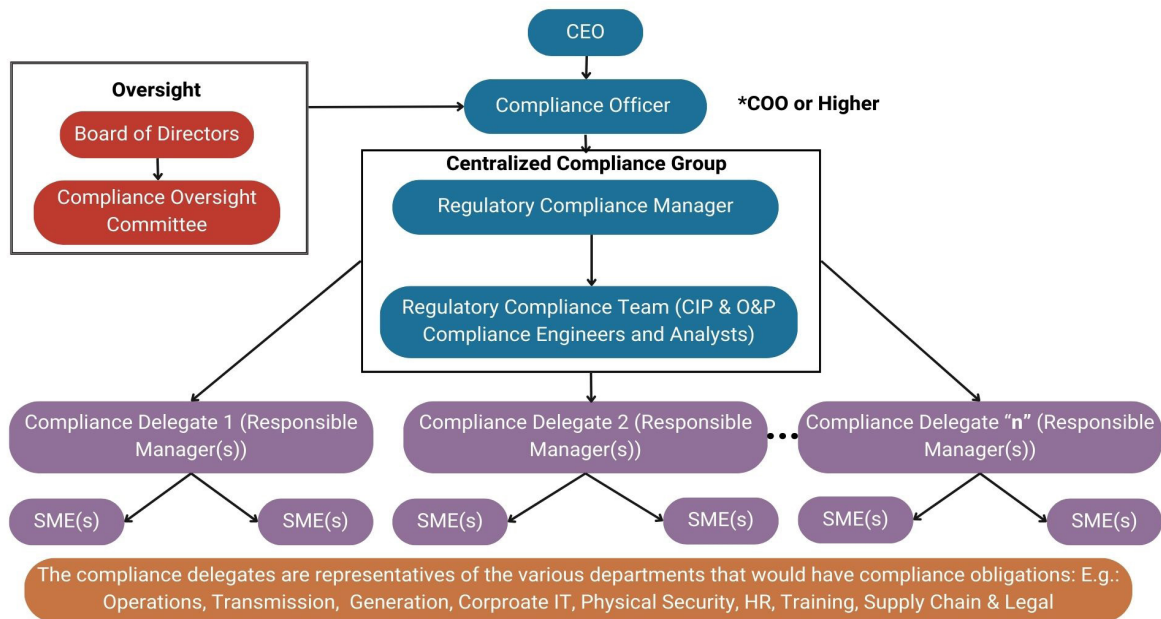
Figure 1: Organizational Structure

It should also be recognized that the above organizational structure is one example of an organizational structure and may not be suitable for all entities, depending on size and compliance exposure.

The responsibilities for the specific roles presented in the organizational structure in Figure 1 above are as follows:

Board of Directors

The endorsement of the RCP by the Board of Directors should be formalized through an official Corporate Policy Level document. Their principal role is to instill a culture of compliance throughout the organization, starting from the highest echelons. The Board is tasked with ultimate oversight of the RCP, ensuring its alignment with the organization's strategic goals and objectives concerning reliability compliance programs.

Compliance Oversight Committee (COC)

The Compliance Oversight Committee (COC) bears the responsibility of overseeing senior management's execution of the compliance program. This encompasses the effective implementation and adherence to the RCP across the entire organization. The committee should convene regularly to deliberate on compliance matters, guided by well-defined terms of reference. The COC assumes a pivotal role in decision-making concerning compliance strategies.
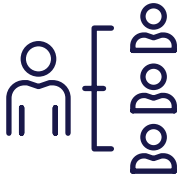
Chief Executive Officer (CEO)

The CEO bears ultimate accountability for ensuring compliance with Reliability Standards. They wield authority over all stakeholders engaged in compliance and possess the capability to directly report compliance concerns to the Board of Directors if deemed necessary. The CEO's role extends to actively fostering a culture of compliance and excellence in reliability throughout the organization.

Chief Compliance Officer

The Chief Compliance Officer (CCO) should serve as an independent officer with the responsibility of reporting NERC compliance concerns directly to the CEO and the Board of Directors or a designated committee. The CCO is tasked with overseeing the prioritization of NERC Reliability Standards compliance activities, actively cultivating a culture of compliance across all organizational levels, and functioning as the focal point for escalating unresolved compliance issues. The CCO should maintain a direct line to the CEO for further escalation if needed.

Reliability Compliance Group (RCG)

The RCG should bear the responsibility of managing and overseeing the comprehensive implementation of the RCP. This encompasses facilitating compliance program activities and, formulating and upholding policies, processes, procedures, and systems to guarantee adherence to NERC Reliability Standards. Additionally, the RCG should ensure the maintenance of compliance documentation, coordinate compliance-related training, and actively participate in pertinent industry meetings and audits.

Reliability Compliance Delegates

Reliability Compliance Delegates are pivotal intermediaries connecting the Reliability Compliance Group with diverse departments within the organization. Their role involves ensuring compliance with specific Reliability Standards relevant to their respective areas and actively collecting and maintaining evidence to demonstrate adherence. Responsibilities include reporting compliance violations, collaborating on mitigation plans, and ensuring the proper implementation of compliance procedures.

Subject Matter Experts (SMEs)

SMEs should possess an in-depth understanding of specific functional areas pertinent to NERC Reliability Standards. Their responsibilities encompass coordinating and executing tasks related to compliance, staying abreast of changes in standards, collecting and maintaining evidence of compliance, and actively engaging in compliance assessments. Additionally, SMEs should contribute to standards development by providing input and leveraging their expertise.

Reliability Compliance Committee (RCC)

The Reliability Compliance Committee (RCC), under the guidance of the Reliability Compliance Manager, bears the responsibility of reviewing and deliberating on proposed new or revised Reliability Standards. The committee should conduct initial investigations to assess the impact on compliance, identify potential exposure to new requirements, and establish a unified approach for voting and providing comments on proposed standards. Regular meetings should be conducted to ensure alignment with evolving Reliability Standards.

Internal Audit

The Internal Audit team should conduct periodic reviews of the RCP effectiveness. Their responsibilities encompass identifying potential corporate risks related to compliance, reporting irregularities within the organization, and recommending enhancements to the RCP. Additionally, they should play a role in facilitating reliability risk assessments to effectively evaluate and manage compliance-related risks.

Components of a Robust RCP Operational Overview

The following delineates the sections and topics that a comprehensive RCP should cover to adeptly manage an entity's compliance obligations:

1. Standards Development and Compliance

This section delineates the entity's proactive engagement in the development processes of Reliability Standards. It encompasses activities such as offering input and vigilant monitoring of proposed new or revised Reliability Standards. The section guides various roles within the organization on the requisite actions to guarantee compliance before a standard becomes enforceable. It emphasizes the importance of active participation and preparedness in navigating the evolving landscape of Reliability Standards.

2. Compliance Documentation Development and Maintenance

Emphasizing the importance of standardized documentation, procedures, and processes, this section highlights the need for maintaining a reliable power grid. It underscores the significance of retaining high-quality evidentiary information to validate the execution of procedures and refers to the "NERC Reliability Compliance Documentation Framework" for additional guidance.

3. Compliance Management Tools

This section underscores the pivotal role of Compliance Management Tools in ensuring adherence to Reliability Standards through well-defined internal controls. It encompasses documented processes, evidence of implementation, mechanisms for detecting potential non-compliance, and procedures for mitigating identified issues, all requiring rigorous adherence. This section highlights the imperative of systematically managing documents and information essential for demonstrating compliance.

Furthermore, it delves into the specific role of Compliance Management Tools in facilitating changes to processes, procedures, and accountabilities. It emphasizes the importance of systematic communication to relevant stakeholders, ensuring a cohesive and informed approach to compliance. Additionally, this section addresses the requirements for the special handling of sensitive information or Critical Energy Infrastructure Information (CEII) in strict accordance with reliability standards, acknowledging the heightened sensitivity of certain data in the compliance context.

4. Compliance Assessments

This section comprehensively covers various assessments that entities must undertake internally to ensure compliance:

a) Compliance Self-Certification: Designation of Reliability Standards for monitoring through self-certification, involving periodic data submission, and exception reporting.

b) Self-Reporting: Identification and reporting of potential non-compliance to regional regulators. This involves documentation of requirements, review, identification, documentation, and reporting processes.

c) Confidential Employee Reporting: Establishment of a Code of Business Conduct to facilitate confidential reporting of compliance concerns.

d) Escalation and Accountability for Compliance Issues: Outlining processes for escalating identified compliance issues and associated actions.

e) Regional Audits: Preparations for regional regulator audits, including updating Reliability Standards Audit Worksheets (RSAWs) and supporting compliance evidence.

f) Request for Information (RFI): Documenting processes for responding to requests for information from regional auditors.

g) Reporting and Action Tracking: Describing the processes for systematically tracking compliance status and actions. It details the mechanisms for summarizing and reporting relevant information to the appropriate levels of management.

h) Reliability Compliance Review Program: Detailing the Reliability Compliance Review (RCR) Program's role in checking compliance evidence and evaluating compliance with reliability obligations.

i) Internal Reporting and Action Tracking: Outlining, tracking, monitoring, and reporting requirements for compliance activities, including NERC reliability compliance scorecards and dashboards.

j) Compliance Violations: Actions to take when potential non-compliance is identified, including addressing notices of penalties and recourse options.

5. RCP Internal Audit and Program Review Assessments

Within this section, explicit requirements are delineated for the conduct of periodic internal audits and program review assessments. The primary emphasis is placed on guaranteeing compliance with reliability obligations and evaluating the efficacy of compliance demonstration.

Remediation & Mitigation Planning

This section comprehensively addresses the actions necessary in the event of an actual or potential violation. In the occurrence of such events, a self-report is mandated, and this section details the development of a proposed mitigation plan. This plan serves to rectify the potential violation, or alternatively, provides a description of the implemented measures to mitigate the identified issue.

Standards Awareness & Training

This section outlines the entity's Training and Awareness Program crafted to ensure comprehensive understanding among all personnel, including those without direct accountability for compliance with Reliability Standards. The program is designed to familiarize individuals with the principles of the RCP and key obligations associated with relevant NERC Reliability Standards.

Additionally, the training incorporates awareness of potential sanctions and penalties linked to violations. This holistic approach aims to instill a high level of priority and commitment to compliance with Reliability Standards throughout the organization.

The training initiative should encompass the following key elements:

Compliance Awareness - Training should effectively emphasize senior management's commitment, expectations, and support for compliance, to all personnel, as well as the importance of compliance with Reliability Standards. This should also include the periodicity of such compliance awareness trainings.

Reliability Standards Compliance Training – To provide training for specific standards and for specific audiences, as needed or on a recurring basis.

Employee Conduct

This section outlines the necessary Code of Business Conduct concerning the conduct of the entity's employees in alignment with NERC Reliability Standards. The Code is built upon four core management principles: safety, integrity, excellence, and people. Emphasizing clear communication, the Code's content underscores proper conduct and delineates potential sanctions for confirmed cases of misconduct. The Code of Business Conduct further integrates positive reinforcement practices and establishes a linkage between sanctions, if necessary, and the severity of the violation. The Code of Business Conduct should also address the following two items:

A	B
Implications for Entity's RCP for Reliability Standards - Those who do not comply with the Code of Business Conduct may be subject to disciplinary actions up to and including dismissal and/or legal action.	**Ensuring Code Effectiveness: Establishing accountabilities and measures to ensure the ongoing relevance and efficacy of the Code. This involves an annual review to align with the entity's business strategy, organizational structure, accountabilities, and best practices in corporate governance and ethics.**

Continuous Improvement

This section outlines processes for continuously enhancing the entity's compliance program to mitigate the risk of potential non-compliance. Key statements include:

- **Identification of Improvement Areas:** Emphasizing the importance of identifying areas for improvement and potential future violations within the compliance program.
- **Employee Involvement:** Acknowledging that employees are crucial in discovering conditions that impact the reliable operation of the entity's facilities.

- **Open Communication:** Encouraging employees to discuss opportunities and concerns with their immediate supervisors, regardless of significance. Management, particularly the Reliability Compliance Manager (RCM) and CCO, are accountable for receiving suggestions and concerns respectfully, fostering an environment where all employees feel free to raise such issues.

Records Management

This section should encompass the following elements:

Historical Data Retention and Disposition – Outlines retention periods for NERC documentation and evidence mandated by NERC standards and regional regulations, especially in cases of non-compliance.

Reliability Compliance Records Management System – Describes the entity's records management system/tool, including implemented safeguards to prevent loss or destruction of information. Addresses the "Document Control" policy specific to the Reliability Compliance Program (RCP) to ensure secure management of records.

References

The RCP should incorporate a comprehensive list of applicable references to support its implementation. This may include key documents such as the NERC Functional Model, NERC Glossary of Terms, RCP Handbook, and other relevant resources.

Document Classification

This section establishes document classification in accordance with the corporate information protection policy.

Document Revision History

Revision No#	Effective Date	Description of Changes	Reviewed By	Approved By	Review Cycle (Yearly, Bi-yearly, etc.)
[Revision Number]	[Effective Date]	[Description of Changes]	[Reviewer's Name]	[Approver's Name]	[Review Cycle]

Appendices/Attachments

As necessary, all supporting information as presented in this white paper, including definitions, acronyms, forms, process workflows, required tables, etc., should be included in appendices or attachments.

Final Words

In summary, the effectiveness of an RCP hinges on a robust organizational structure that begins with strong support from senior management and permeates throughout all levels of an organization. This structure not only fosters a culture of compliance but also ensures a collective effort toward maintaining a robust compliance posture.

While the recommendations herein represent industry best practices, Acumen acknowledges structural and organizational differences. Electric Utilities are urged to conduct a comprehensive compliance program assessment, identifying efficient approaches tailored to their unique needs.

For expert guidance and optimized compliance efforts, partner with Acumen's experienced consultants. Together, we align your practices with industry standards and organizational nuances, ensuring compliance excellence.

Our Regulatory Experts

At the intersection of passion and expertise lies our team of Regulatory Experts, dedicated to propelling excellence in the utilities sector. With an unwavering commitment, we bring forth innovative solutions designed to guarantee the reliable and sustainable operation of your utility services. Trust in our expertise to navigate the complexities of regulatory compliance and elevate your organization to new heights of efficiency and excellence.

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Joel, a seasoned professional, stands as a proven leader in risk management with a wealth of experience in delivering solutions for Critical Infrastructure Protection (CIP) and Operations & Planning (O&P) in the realm of NERC Regulatory Compliance projects. His expertise and leadership are instrumental in navigating the complexities of regulatory landscapes, ensuring robust compliance and operational excellence.

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Bringing over 30 years of hands-on experience as a linesman, operations engineer, manager, and NERC compliance expert, Mark possesses unparalleled practical and technical know-how. His extensive background uniquely positions him to support and achieve both CIP and Non-CIP compliance goals, making him a valuable asset in navigating the intricacies of utility operations and regulatory requirements.

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Stephen's expertise is rooted in over 14 years of hands-on experience with utilities across diverse NERC Regions. His journey includes applying standards as a crucial part of a regional auditing entity and serving as a compliance leader within a registered entity. This multi-faceted experience equips him with a deep understanding of NERC compliance intricacies, making him a valuable resource for navigating and implementing regulatory standards effectively.

Connect With Us & Explore Your Options

If your organization is grappling with the complexities of NERC compliance, Acumen provides tailored services to meet your needs:

- Ad-Hoc NERC Compliance Services
- Full or Partial NERC Compliance Managed Services

Visit our website for more details, or book a complimentary consultation to explore how Acumen can be your strategic partner in achieving seamless and effective NERC compliance.

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