receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or
3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

List of Subjects in 14 CFR Part 91

Aircraft, Noise control, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506, 46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat 1180).

2. Section 91.703 is amended by adding paragraph (a)(5) to read as follows:

§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.

(a) * * *

(5) For aircraft subject to ICAO Annex 16, carry on board the aircraft documents that summarize the noise operating characteristics and certifications of the aircraft that demonstrate compliance with this part and Part 36 of this chapter.

* * * * *

Issued in Washington, DC on October 17, 2008.

Carl Burleson,

Director, Office of Environment and Energy.

[FR Doc. E8–25271 Filed 10–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08–11–000]

Version Two Facilities Design, Connections and Maintenance Reliability Standards

Issued October 16, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission is proposing to approve three revised Reliability Standards developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. The three revised Reliability Standards, designated by NERC as FAC–010–2, FAC–011–2 and FAC–014–2, set requirements for the development and communication of system operating limits of the Bulk-Power System for use in the planning and operation horizons.

DATES: Comments are due November 24, 2008.

ADDRESSES: Comments and reply comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. This will enhance document retrieval for both the Commission and the public. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Attachments that exist only in paper form may be scanned. Commenters filing electronically should not make a paper filing. Service of rulemaking comments is not required. Commenters that are not able to file electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Cory Lankford (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6711; Eddy Lim (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 502–6713.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act,[1] the Commission is proposing to approve three revised Reliability Standards concerning Facilities Design, Connections and Maintenance (FAC) that were developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. The three revised Reliability Standards, designated by NERC as FAC–010–2, FAC–011–2 and FAC–014–2, set requirements for the development and communication of system operating limits of the Bulk-Power System for use in the planning and operation horizons.[2]

I. Background

A. Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[3]

B. NERC's Proposed Version Two FAC Reliability Standards

3. On November 15, 2006, NERC filed 20 revised Reliability Standards and three version one FAC Reliability Standards for Commission approval. The Commission addressed the 20 revised Reliability Standards in Order

[1] 16 U.S.C. 824o (2006).

[2] The Commission is not proposing any new or modified text to its regulations. Rather, as set forth in 18 CFR Part 40, a proposed Reliability Standard will not become effective until approved by the Commission, and the ERO must post on its Web site each effective Reliability Standard.

[3] 16 U.S.C. 824o(e)(3).

No. 693[4] and established a separate rulemaking proceeding to address the three version one FAC Reliability Standards, which require planning authorities and reliability coordinators to establish methodologies to determine system operating limits (SOLs) for the Bulk-Power System in the planning and operation horizons. The Commission approved the version one FAC Reliability Standards in Order No. 705 and directed the ERO to address certain issues.[5]

4. On June 30, 2008, in response to the Commission's directives in Order No. 705, NERC submitted for Commission approval three revised FAC Reliability Standards:[6] FAC–010–2—System Operating Limits Methodology for the Planning Horizon, FAC–011–2—System Operating Limits Methodology for the Operations Horizon, and FAC–014–2—Establish and Communicate System Operating Limits. NERC requests that FAC–010–2 be made effective on July 1, 2008, FAC–011–2 on October 1, 2008, and FAC–014–2 on January 1, 2009, consistent with the implementation dates of version one of these Reliability Standards.

II. Discussion

5. As discussed below, NERC's proposed revisions to the FAC Reliability Standards preliminarily appear to be just and reasonable and consistent with our direction in Order No. 705. The Commission therefore proposes to accept FAC–010–2, FAC–011–2, and FAC–014–2 effective the latter of the effective date of the final rule in this docket or NERC's proposed effective dates.[7]

A. Load Greater Than Studied

6. Requirement R2.3.2 of FAC–011–1 provided that the system's response to a single contingency may include, *inter alia,* ''[i]nterruption of other network customers, only if the system has already been adjusted, or is being adjusted, following at least one prior outage, or, if the real-time operating conditions are more adverse than anticipated in the corresponding studies, *e.g.*, load greater than studied.'' NERC asserted that a significant gap between actual and studied conditions (such as a large error in load forecast) could be treated as though it were a contingency under the version 1 of FAC–011–1 Reliability Standard.

7. In Order No. 705, the Commission disagreed with NERC's reading of FAC–011–1, sub-Requirement R2.3.2 and interpretation of the phrase ''load greater than studied.''[8] However, the Commission found that the meaning of Requirement R2.3 and sub-Requirement R2.3.2 was not otherwise unclear. The Commission therefore approved FAC–011–1, but directed the ERO to revise the Reliability Standard through the Reliability Standards development process. The Commission suggested that NERC could address the Commission's concern by deleting the phrase, ''*e.g.*, load greater than studied.''

NERC Proposal

8. NERC proposes to address the Commission's concern with the phrase ''load greater than studied'' by revising FAC–011–1 to remove the phrase from Requirement R2.3.2. NERC states that because the phrase served as an example, its removal does not materially change the requirement or the Reliability Standard. NERC's proposed FAC–011–2 therefore omits the relevant phrase.

Commission Proposal

9. The Commission proposes to approve NERC's proposed removal of the phrase ''*e.g.*, load greater than studied'' from Requirement R2.3.2 of FAC–011–2. NERC's revision in FAC–011–2 appears reasonable and does not appear to change or conflict with the stated requirements set forth in the version one Reliability Standards approved in Order No. 705. NERC's revision therefore appears just, reasonable, not unduly discriminatory or preferential, and in the public interest.

10. While NERC describes the phrase ''load greater than studied'' as an example and states that its removal does not materially change the requirement, the Commission notes that Order No. 705 found that the operating conditions referred to in sub-Requirement R2.3.2 are exacerbating circumstances that are distinct from the actual contingency to be addressed that is referred to in Requirement R2.3. We stated that this did not support treating ''load greater than studied'' as a contingency.[9] As we stated in Order No. 705, correcting for load forecast error is not accomplished by treating the error as a contingency, but is addressed under other Reliability Standards.[10]

B. Cascading Outages

11. With the version one FAC Reliability Standards, NERC proposed to add the term ''Cascading Outages'' to its glossary. In Order No. 705, the Commission noted that, although the glossary did not include a definition of Cascading Outages, it included an approved definition of Cascading, which seemed to describe the same concept. The Commission remanded NERC's proposed definition of Cascading Outages because NERC did not describe either the need for two definitions that seem to address the same matter or the variations between the two. The Commission also raised specific concerns with NERC's proposed definition of Cascading Outages. However, the Commission allowed NERC to file a revised definition that addresses the Commission's concerns.

NERC Proposal

12. NERC states that it is not proposing a revised definition of Cascading Outage. Instead, NERC proposes to address the Commission's concern by removing the term from the proposed FAC Reliability Standards. NERC states that its Board of Trustees withdrew its approval of the term at its February 12, 2008 meeting. NERC further states that the drafting team reviewed the term Cascading Outage relative to the term Cascading, a term in the approved NERC Glossary of Terms and indicated there were no intended material differences in the terms. NERC therefore removed the term Cascading Outage from the proposed FAC–010–2 and FAC–011–2 Reliability Standards and replaced with it with the term Cascading.

Commission Proposal

13. The Commission proposes to approve NERC's proposed removal of the term Cascading Outage from its FAC Reliability Standards. NERC's proposed revisions to FAC–010–2 and FAC–011–2 appear reasonable and do not appear to change or conflict with the stated requirements set forth in the version one

[4] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 16416, FERC Stats. & Regs. ¶ 31,242, *reh'g denied,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[5] *Facilities Design, Connections and Maintenance Reliability Standards,* Order No. 705, 73 FR 1770 (Jan. 9, 2008), 121 FERC ¶ 61,296 (2007).

[6] NERC designates the version number of a Reliability Standard as the last digit of the Reliability Standard number. Therefore, version one Reliability Standards end with ''–1'' and version two Reliability Standards end with ''–2.''

[7] Reliability Standards cannot become effective before the effective date of a Commission order approving them. *See, e.g., Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 73 FR 7368 at n.190 (Feb. 7, 2008), 122 FERC ¶ 61,010 (2008).

[8] Order No. 705, 121 FERC ¶ 61,296 at P 70.

[9] *Id.* P 69.

[10] *Id.* P 68. For instance, we stated that ''transmission operators are required to modify their plans whenever they receive information or forecasts that are different from what they used in their present plans. Furthermore, variations in weather forecasts that result in load forecast errors are more properly addressed through operating reserve requirements.'' *Id.*

Reliability Standards approved in Order No. 705. NERC's revisions therefore appear just, reasonable, not unduly discriminatory or preferential, and in the public interest.

C. Loss of Consequential Load

14. Requirement R2.3 of FAC–010–1 provided that the system's response to a single contingency may include, *inter alia,* ''planned or controlled interruption of electric supply to radial customers or some local network customers connected to or supplied by the Faulted Facility or by the affected area.'' [11] In response to a question raised by the Commission, NERC clarified that the provision in FAC–010–1, Requirement R2.3 is limited to loss of load that is directly connected to the facilities removed from service as a direct result of the contingency, *i.e.*, consequential load loss.

15. In Order No. 705, the Commission reiterated its holding that addressed similar language on loss of load in Order No. 693, regarding Reliability Standard TPL–002–0. In Order No. 693, the Commission noted that ''allowing for the 30 minute system adjustment period, the system must be capable of withstanding an N–1 contingency, with load shedding available to system operators as a measure of last resort to prevent cascading failures.'' [12] Order No. 693 directed the ERO to clarify the planning Reliability Standard TPL–002–0 accordingly. The Commission reached the same conclusion in Order No. 705. In Order No. 705, the Commission approved Reliability Standard FAC–010–1, Requirement R2.3 and directed the ERO to ensure that the clarification developed in response to Order No. 693 is made to the FAC Reliability Standards as well.[13]

NERC's Proposal

16. NERC suggests that the revisions to the term ''loss of consequential load'' are best addressed in the modifications being made to the transmission planning (TPL) family of Reliability Standards in its Project 2006–02 Assess Transmission Future Needs and Develop Transmission Plans. NERC reiterates its position that the TPL Reliability Standards define acceptable system performance response and serve as the foundation for the FAC family of Reliability Standards. NERC states that the term ''loss of consequential load'' is intrinsic to the scope of Project 2006–02. According to NERC, the drafting team has already proposed a definition for the term to be presented for approval for inclusion in NERC's Glossary of Terms.[14] NERC states that this approach will provide the clarity needed.

Commission Proposal

17. The Commission proposes to allow the ERO to address revisions to the term ''loss of consequential load'' in the modification being made to the TPL Reliability Standards. Such revisions should be consistent with the Commission's prior determinations in Order Nos. 693 and 705.[15] The Commission finds that FAC–010–2 and FAC–011–2 are clearly understood as written and clarified in Order No. 705, including its holding with respect to ''loss of consequential load,'' [16] and that NERC's proposal to deal with ''loss of consequential load'' in a more-related project is appropriate.

D. Violation Severity Levels

18. In the event of a violation of a Reliability Standard, NERC will establish the initial value range for the corresponding base penalty amount. To do so, NERC will assign a violation risk factor for each requirement of a Reliability Standard that relates to the expected or potential impact of a violation of the requirement on the reliability of the Bulk-Power System. In addition, NERC will define up to four violation severity levels—Lower, Moderate, High and Severe—as measurements for the degree to which the requirement was violated in a specific circumstance.

19. In Order No. 705, the Commission approved 63 of NERC's 72 proposed violation risk factors and directed NERC to file violation severity level assignments before the version one FAC Reliability Standards become effective.[17] Subsequently, NERC developed violation severity levels for each requirement of Reliability Standard, as measurements for the degree to which the requirement was violated in a specific circumstance.

20. On June 19, 2008, the Commission issued an order approving the violation severity level assignments filed by NERC for the 83 Reliability Standards approved in Order No. 693.[18] In that order, the Commission offered four guidelines for evaluating the validity of the violation severity levels, and ordered a number of reports and further compliance filing to bring the remainder of NERC's violation severity levels into compliance with the Commission's guidelines. The four guidelines are: (1) Violation severity level assignments should not have the unintended consequence of lowering the current level of compliance; (2) violation severity level assignments should ensure uniformity and consistency among all approved Reliability Standards in the determination of penalties; (3) violation severity level assignments should be consistent with the corresponding requirement; and (4) violation severity level assignments should be based on a single violation, not a cumulative number of violations.[19] The Commission found that these guidelines will provide a consistent and objective means for assessing, *inter alia,* the consistency, fairness and potential consequences of violation severity level assignments. The Commission noted that these guidelines were not intended to replace NERC's own guidance classifications, but rather, provide an additional level of analysis to determine the validity of violation severity level assignments.

NERC Proposal

21. NERC states that it developed a full suite of violation severity levels for FAC–010–2, FAC–011–2 and FAC–014–2. NERC notes that it developed these violation severity levels prior to the issuance of the Violation Severity Level Order.[20] NERC requests that the Commission accept its violation severity levels for the version two FAC Reliability Standards even though it has not yet assessed their validity using the four new guidelines established in the Violation Severity Level Order. NERC states that it is committed to assessing the violation severity levels for the revised FAC Reliability Standards in the six-month compliance filing required by the Violation Severity Level Order.[21]

[11] Identical language appears in FAC–011–1, Requirement R2.3

[12] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1788.

[13] Order No. 705, 121 FERC ¶ 61,296 at P 53.

[14] On August 14, 2007, the Reliability Standards drafting team posted for comment a draft of Reliability Standard TPL–001–1. NERC, *Draft 2 TPL–001–1, Transmission System Planning Performance Requirements Posted for 45-day Comment Period,* Project 2006–02, at 2 (2008), *available at: http://www.nerc.com/filez/standards/Assess-Transmission-Future-Needs.html.*

[15] *See* Order No. 705, 121 FERC ¶ 61,296 at P 53; Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1788 & n.461.

[16] *See id.* P 53.

[17] Order No. 705, 121 FERC ¶ 61,296 at P 137.

[18] *North American Electric Reliability Corp.,* 123 FERC ¶ 61,284 (2008) (Violation Severity Level Order). NERC had not, at that time, submitted violation severity levels for the FAC Reliability Standards at issue in this proceeding.

[19] *Id.* P 17.

[20] NERC June 30, 2008 Filing, Docket No. RM07–3–000 at 5.

[21] *Id.* (citing Violation Severity Level Order, 123 FERC ¶ 61,284 at P 42 (requiring NERC, within six months from the issuance of the Violation Severity Level Order, to conduct a review of the approved violation severity levels pursuant to the Commission guidelines, and submit a compliance filing)).

NERC did not submit violation risk factors for these version two FAC Reliability Standards.

Commission Proposal

22. The Commission proposes to approve, with modification, NERC's proposed violation severity levels for FAC–010–2, FAC–011–2 and FAC–014–2. While we appreciate that NERC assigned its proposed violation severity levels before the Commission established the four guidelines for evaluating the validity of the violation severity levels, we find that NERC's proposed violation severity levels would not meet our guidelines. We therefore propose the following modifications to the violation severity levels to form a complete set of violation severity levels in this NOPR. We note that NERC has committed to assessing the violation severity levels in the compliance filing required by the Violation Severity Level Order. Our proposals here do not preclude NERC from including an assessment of its FAC violation severity levels in its six-month evaluation, and we encourage NERC to do so. If, however, NERC does not include an assessment of its FAC violation severity levels in its six-month evaluation, the Commission proposes to direct the ERO to submit an assessment of the FAC violation severity levels within six months of the effective date of the Final Rule in this docket.

23. As drafted, some of NERC's proposed violation severity levels do not meet the Commission's guidelines established in the Violation Severity Level Order. Of the violation severity levels submitted by NERC, FAC–010–2 Requirements R1, R3, R4 and R5; FAC–011–2 Requirement R4; and FAC–014–2 Requirement R5 are consistent with the Commission violation severity level guidelines and only minor edits are proposed for clarity. The Commission therefore proposes to approve modified violation severity levels that are consistent with our guidelines.

24. The Commission is concerned with several of the proposed violation severity levels and proposes modifications. For example, as proposed by NERC, it is difficult to discern which conditions trigger which violation severity level assigned to FAC–010–2 Requirement R4. The Commission therefore proposes to direct the ERO to make modifications to clarify those conditions without changing the substance of the violation severity levels. The Commission also proposes to direct the ERO to modify the violation severity levels assigned to FAC–011–2 Requirement R1 to make them consistent with the violation severity levels proposed for FAC–010–2 Requirement R1. This uniformity will assist in the compliance and enforcement of these standards because it is logical that nearly identical requirements have nearly identical violation severity level structures.

25. NERC submitted violation severity levels for Requirement R2 of FAC–010–2 and Requirement R2 of FAC–011–2. In Order No. 705, the Commission found that Requirement R2 of FAC–010–1 and Requirement R2 of FAC–011–1, without their sub-requirements, include no required performance or outcome.[22] As such, no violation severity levels need to be assigned to these requirements. The Commission therefore proposes to delete the proposed violation severity levels for Requirement R2.

26. As proposed by NERC, Requirement R3 of FAC–011–2 is assigned a ''Severe'' violation severity level if the reliability coordinator's methodology for determining SOLs is missing a description of *three or more* of the sub-requirements ranging from R3.1 to R3.7. At the same time, NERC assigns a ''High'' violation severity level if the reliability coordinator's methodology for determining SOLs includes a description for all but *three* sub-requirements within the same range. Therefore, if a reliability coordinator's methodology for determining SOLs is missing a description of three sub-requirements, it could be assigned both a ''High'' and a ''Severe'' violation severity level. To eliminate this overlap, the Commission proposes to direct the ERO to assign a ''Severe'' violation severity level to Requirement R3 of FAC–011–2 where the reliability coordinator is missing a description of *four* or more sub-requirements R3.1 to R3.7 from its methodology for determining SOLs.

27. Requirements R1 through R4 of FAC–014–2 address the development of SOLs and IROLs consistent with the methodologies outlined in FAC–010–2 and FAC–011–2. NERC proposes to assign violation severity levels to these requirements based on a quartile division of the total number of inconsistencies between the assigned SOLs and the SOLs that would be produced using the methodologies outlined in FAC–010–2 and FAC–011–2. For example, NERC proposes to assign a ''Lower'' violation severity level where 1 to 25 percent of SOLs are inconsistent with the applicable entity's SOL methodology. The Commission believes that each time a SOL is inconsistent with the applicable entity's SOL methodology, it is a violation of the Reliability Standards. By contrast, NERC's proposed violation severity levels are based on multiple inconsistent SOLs. The Commission's fourth guideline for evaluating violation severity levels makes clear that violation severity level assignments should be based on a single violation, not on a cumulative number of violations. To remedy this deficiency, the Commission proposes to direct the ERO to modify its violation severity levels for FAC–014–02 Requirements R1 through R4 based on the percentage of deviation from the SOL methodology for each violation.

28. Requirement R6 of FAC–014–2 requires the planning authority to identify the subset of multiple contingencies (if any), from Reliability Standard TPL–003 that result in stability limits. However, the proposed violation severity levels for Requirement R6 of FAC–014–2 do not identify a situation where the planning authority fails to provide a complete subset of contingencies to the reliability coordinator. This omission could result in the reliability coordinator not having the information it needs for its situational awareness of exceeding SOLs and IROLs that impact the reliable operation of the Bulk-Power System. The Commission therefore proposes to direct the ERO to add the following ''Lower'' violation severity level: ''The Planning Authority failed to provide a complete subset of contingencies to the reliability coordinator in accordance with R6.'' The Commission also proposes to direct the ERO to reassign NERC's current ''Lower'' violation severity level as the new ''Moderate'' violation severity level to emphasize the need to notify the reliability coordinator.[23] The revisions proposed here would make the violation severity level assignments for Requirement R6 consistent with NERC's own guidelines for the development of violation severity levels related to communication or coordination requirements.[24]

29. The Commission has directed NERC to develop violation severity levels for each requirement and sub-requirement of each Reliability

[22] Order No. 705, 121 FERC ¶ 61,296 at P 159.

[23] NERC did not propose a ''Moderate'' violation severity level for requirement R6.

[24] NERC, *Violation Severity Level Guidelines Criteria,* Project 2007–23 at 19 (2008), *available at: http://www.nerc.com/docs/standards/sar/VSLDT_Guidelines_Final_Draft_08Jan08.pdf.* The NERC Guidelines indicate that a Moderate violation severity level should be selected when the responsible entity's coordination/communication is non-compliant with respect to at least one significant element within the requirement. In this case, the significant element is the failure to notify the Reliability Coordinator.

Standard.[25] NERC did not propose any violation severity level assignments for sub-requirements. The Commission therefore proposes to direct the ERO to assign binary violation severity levels for all of the proposed sub-requirements.[26] In Order No. 705, the Commission found that the binary approach is appropriate for certain violation severity level assignments.[27] In this instance, the binary approach is appropriate because the violation severity level of the base requirement is established by whether a sub-requirement is violated or not, not to what extent a sub-requirement is violated. Thus, the proposed binary requirements satisfy guideline three, which calls for consistency between the violation severity level assignments and their corresponding requirements. For example, FAC–010–2 Requirement R1.1 states that the planning authority's SOL methodology shall ''[b]e applicable for developing SOLs used in the planning horizon.'' [28] NERC did not propose any violation severity levels for this sub-requirement, therefore the Commission proposes a binary severe violation severity level that would be triggered when the planning authority SOL methodology is *not* applicable for developing SOLs in the planning horizon. This binary approach for sub-requirements provides clear criteria to determine a violation of the sub-requirement. The Commission took a similar approach to the sub-requirements applicable to the WECC regional differences.

30. The complete set of the Commission's proposals is included in Attachment A to this order. The Commission proposes to direct the ERO to file the revised violation severity levels within 30 days of the Final Rule in this proceeding.

31. Finally, the Commission notes that NERC did not submit violation risk factors for the version two FAC Reliability Standards. In Order No. 705, the Commission approved the majority of NERC's proposed violation risk factors for the version one FAC Reliability Standards.[29] On April 1, 2008, NERC filed revised violation risk factors for the version one FAC Reliability Standards. These were accepted by delegated authority on May 29, 2008. The Commission proposes to direct the ERO to apply those same violation risk factors to the version two FAC Reliability Standards approved in the Final Rule in this proceeding.

E. Western Interconnection Regional Differences

32. Although NERC submitted requirements for FAC–010–2 and FAC–011–2 that address the Western Interconnection regional difference, NERC did not submit violation severity levels or violation risk factors for these requirements. In Order No. 705, the Commission approved version one of the FAC Reliability Standards and directed WECC to develop and submit violation risk factors and violation severity levels that are applicable to the Western Interconnection regional difference.[30] The Commission directed WECC to file its violation risk factors and violation severity levels no later than the effective date of the applicable Reliability Standard. FAC–010–1 became effective on July 1, 2008 and FAC–011–1 will become effective on October 1, 2008. To remedy this deficiency, the Commission offers proposed modifications to the violation severity level assignments assigned to FAC–010–2 and FAC–011–2 that address the Western Interconnection regional differences. The Commission's proposed modifications are included in Attachment A to this order. Consistent with our decision in Order No. 705, the Commission proposes to direct WECC to apply the NERC violation risk factors to the Western Interconnection regional difference until after WECC develops its own and they are approved by the ERO and the Commission.[31] We note that WECC is still obligated to comply with the Commission's directives in Order No. 705 to file violation risk factors and violation severity levels addressing the Western Interconnection regional difference.

III. Information Collection Statement

33. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[32] The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.[33] As stated above, the Commission previously approved, in Order No. 705, each of the Reliability Standards that are the subject of the current rulemaking. The modifications to the Reliability Standards are minor; therefore, they do not add to or increase entities' reporting burden. Thus, the modified Reliability Standards do not materially affect the burden estimates relating to the earlier version of the Reliability Standards presented in Order No. 705.

Title: Version Two Facilities Design, Connections and Maintenance Reliability Standards.

Action: Proposed Collection.

OMB Control No.:

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: This NOPR proposes to approve three modified Reliability Standards that pertain to facilities design, connections and maintenance. The Reliability Standards will require planning authorities and reliability coordinators to establish methodologies to determine system operating limits (SOLs) for the Bulk-Power System in the planning and operation horizons. This NOPR proposes to find the Reliability Standards and interpretations just, reasonable, not unduly discriminatory or preferential, and in the public interest.

34. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, 888 First Street, NE. Washington, DC 20426, Tel: (202) 502–8415, Fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*, or by contacting: Office of Information and Regulatory Affairs, Attn: Desk Officer for the Federal Energy Regulatory Commission (Re: OMB Control No. 1902–0244), Washington, DC 20503, Tel: (202) 395–4650, Fax: (202) 395–7285, e-mail: *oira_submission@omb.eop.gov*.

IV. Environmental Analysis

35. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[34] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not

[25] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,248, *order on clarification,* 120 FERC ¶ 61,239 (2007).

[26] Binary requirements of Reliability Standards define compliance in terms of ''pass'' or ''fail.''

[27] Order No. 705, 121 FERC ¶ 61,296 at P 24.

[28] NERC June 30, 2008 Filing, Docket No. RM07–3–000 ex. A.

[29] Order No. 705, 121 FERC ¶ 61,296 at P 137.

[30] *Id.* P 146.

[31] *Id.*

[32] 5 CFR 1320.11.

[33] 44 U.S.C. 3507(d).

[34] *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

substantially change the effect of the regulations being amended.[35] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

36. The Regulatory Flexibility Act of 1980 (RFA)[36] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business. (*See* 13 CFR 121.201). For electric utilities, a firm is small if, including affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours. The RFA is not implicated by this Final Rule because the minor modifications and interpretations discussed herein will not have a significant economic impact on a substantial number of small entities.

VI. Comment Processing

37. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 24, 2008. Comments must refer to Docket No. RM08–11–000, and must include the commenters' name, the organization they represent, if applicable, and their address in their comments.

38. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http:/www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. Commenters filing electronically should not make a paper filing. Service of rulemaking comments is not required.

39. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

40. All Comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

41. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

42. From FERC's Home Page on the Internet, this information is available on eLibrary. The Full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

43. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact the Commission's Online Support at 1–866–208–3676 (toll free) or (202) 502–6652 (e-mail at *ferconlinesupport@ferc.gov*), or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659 (e-mail at *public.reference@ferc.gov*).

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

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[35] 18 CFR 380.4(a)(2)(ii).

[36] 5 U.S.C. 601–12.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, and 66

RIN 1219–AB41

Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; notice of public hearing; extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold an additional public hearing on its proposed rule to amend the existing metal and nonmetal standards for the possession and use of intoxicating beverages and narcotics and make the new standard applicable to all mines. The proposed rule would also require those who violate the prohibitions to be removed from the performance of safety-sensitive job duties until they successfully complete the recommended treatment and their alcohol- and drug-free status is confirmed by a return-to-duty test.

DATES: All comments must be received by midnight Eastern Daylight Savings Time on November 10, 2008.

MSHA will hold a public hearing on October 28, 2008. The **SUPPLEMENTARY INFORMATION** section of this notice includes details of the hearing.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB41'' and may be sent by any of the following methods:

(1)Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

(2) Electronic mail: *zzMSHA-comments@dol.gov*. Include ''RIN 1219–AB41'' in the subject line of the message.

(3) Facsimile: 202–693–9441. Include ''RIN 1219–AB41'' in the subject line of the message.

(4) Regular Mail: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.

(5) Hand Delivery or Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

Comments can be accessed electronically at *http://www.msha.gov* under the Rules and Regs link. MSHA will post all comments on the Internet without change, including any personal information provided.

Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, *patricia.silvey@dol.gov* (E-mail), 202–693–9440 (Voice).

SUPPLEMENTARY INFORMATION:

I. Background

On September 8, 2008 (73 FR 52136), MSHA published a proposed rule in the **Federal Register** that would amend the existing metal and nonmetal standards