

Supporting Statement
FERC-725A, Mandatory Reliability Standards for the Bulk Electric System
Modifications to the collection due to the Final Rule in RM12-4-000
“Transmission Vegetation Management”
Reliability Standard FAC-003-2

In this supporting statement, the Commission describes the new or modified information collection requirements contained in Reliability Standard FAC-003-2. This new version of the transmission vegetation management Reliability Standard only makes some modifications to the information collection requirements contained in the current version (FAC-003-1), and only these modifications are discussed in detail in this supporting statement. The information collection requirements discussed here are part of FERC’s existing collection, FERC-725A.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

On August 8, 2005, The Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005 (EPAAct 2005), was enacted into law.¹ EPAAct 2005 added a new section 215 to the Federal Power Act (FPA), which requires a Commission-certified Electric Reliability Organization (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.

On March 16, 2007, in Order No. 693, pursuant to section 215(d) of the FPA, the Commission approved 83 of 107 proposed Reliability Standards, six of the eight proposed regional differences, and the North American Electric Reliability Corporation (NERC) *Glossary of Terms Used in Reliability Standards* (NERC Glossary), which includes NERC’s FAC-003-1 Transmission Vegetation Management Program. In approving FAC-003-1, the Commission directed the ERO to make or consider certain changes in the next version of the standard. Among other things, the Commission directed the ERO to develop a standard that included the minimum clearance distance needed to prevent sustained vegetation outages, and to consider expanding the applicability of the standard to sub 200kV transmission lines.²

¹ The Energy Policy Act of 2005, Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), codified at 16 U.S.C. 824o (2000).

² Order No. 693, FERC at p 708, 732.

On December 22, 2011, NERC submitted a petition seeking approval of revised Reliability Standard FAC-003-2 - Transmission Vegetation Management.

A recurring cause in many blackouts has been vegetation-related outages. In fact, one of the initiating causes of the 2003 Northeast blackout was inadequate vegetation management practices that led to tree contact.³ Further, NERC has identified a focus on preventing non-random equipment outages, such as those caused by vegetation, as a top priority that will most likely have a positive impact on Bulk-Power System reliability.⁴ We also note that industry has made important strides in reducing the instances of vegetation contact.⁵ We believe that industry compliance with FAC-003-2, together with a continued focus by industry on best practices for vegetation management, will serve to enhance the reliability of the Bulk-Power System.

The information collection requirements associated with vegetation management practices prescribed in FAC-003-2 (such as development of compliant vegetation management plans and retention of inspection records) provide a means to measure an entity's compliance with the standard. Under authority granted by FERC, NERC and Regional Entities collect the applicable information associated with FAC-003-2.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

Reliability Standard FAC-003-2 has a number of improvements over the Version 1 standard, and certain of these changes will result in an increased reporting or record keeping burden. In order to ensure compliance with the new standard, transmission owners will have to review their existing policies and procedures and make adjustments as needed to ensure that inspections are done with the newly required frequency, that inspection and trimming schedules are sufficient to prevent encroachments into the minimum vegetation clearance distance, and that other requirements concerning documentation and reporting can be met. Also, under FAC-003-2, certain sub 200kV

³ See U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations at 18, 57-64 (April 2004) (2003 Blackout Report).

⁴ See written remarks by Gerry Cauley, NERC's Chief Executive Officer, for the November 29, 2011 Reliability Technical Conference at 1, 4 and 5 (Docket No. AD12-1-000).

⁵ See, e.g., NERC's Third Quarter 2012 Vegetation-Related Transmission Outage Report at 6-7, available at <http://www.nerc.com/files/Item%202%20--%20Third%20Quarter%20Vegetation%20Report.pdf>.

lines will become subject to the standard's requirements for the first time. Specifically, FAC-003-2 will now cover lines that are part of an Interconnection Reliability Operating Limit (IROL) or part of a Major WECC Transfer Path, even if they are rated at less than 200 kV.⁶ With the new applicability, transmission owners must add those lines to their inspection programs and record keeping obligations. NERC, and the regional entities with delegated authority from NERC, will monitor compliance with the requirements of FAC-003-2 as part of periodic audits.

The quarterly reporting on sustained vegetation transmission outages will continue under the new standard as a compliance obligation. Transmission owners submit these quarterly reports to the regional entities. The regional entity then submits information to NERC. These reports allow regional entities and NERC to keep track of information related to outages. We expect those transmission owners with sub 200kV lines newly applicable to the standard to file quarterly reports.

Failure to follow the requirements of FAC-003-2 could lead to additional sustained outages due to tree-line contact. For example, maintaining a vegetation management plan will help entities to trim vegetation to appropriate clearance distances, thereby reducing possibilities of vegetation contact with transmission lines. These types of failures could jeopardize system reliability. Vegetation contact with transmission lines were major factors in two significant blackouts in WECC territory in 1996 and in the August 2003 northeast blackout.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE THE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

The required submission of quarterly informational reports will continue under Reliability Standard FAC-003-2 as it did under the existing version. Transmission owners are not expected to change their reporting methods to NERC or the regional entities, and the increase in applicable transmission lines, which would now be subject to

⁶ NERC defines "IROL" as "[a] System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Bulk Electric System." NERC defines "System Operating Limit" as "[t]he value (such as MW, MVar, Amperes, Frequency or Volts) that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria." See NERC Glossary of Terms Used in Reliability Standards (NERC Glossary) at 26, 48. The Western Electricity Coordinating Council (WECC) maintains a listing of Major WECC Transfer Paths, *available at* <http://www.wecc.biz/Standards/Development/WECC-0091/Shared Documents/WECC-0091 Table Major Paths 4-28-08.doc>.

the quarterly reporting requirements, is not expected to be significant. The use of current or improved technology is not covered in the Reliability Standard, and is therefore left to the discretion of each regional and reporting entity.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2.

The information collection requirements are unique to this reliability standard and to this information collection. The Commission does not know of any duplication in the requirements.

5. METHODS USED TO MINIMIZE THE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

Small entities may see a minor increase in cost due to increased inspection frequency for certain entities or lines, and due to the cost of compliance for newly applicable transmission lines. Analysis shows that most small business entities do not have a significant number of lines above 200kV that could require more inspection, and that any increased costs associated with the newly applicable lines is expected to primarily affect larger entities.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

Failure to follow requirements and compliance of FAC-003-2 could lead to additional sustained power outages due to tree-line contact. These types of failures could jeopardize system reliability. Vegetation contact with transmission lines were major factors in two significant blackouts in WECC territory in 1996 and the August 2003 northeast blackout.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances as described in 5 CFR 1320.5(d)(2) related to this Final Rule.

**8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY:
SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE**

The ERO process to establish Reliability Standards is a collaborative process with the ERO, Regional Entities and other stakeholders developing and reviewing drafts, and

providing comments, with the final proposed standard submitted to the FERC for review and approval.⁷ In addition, each FERC rulemaking (both proposed and final rules) is published in the Federal Register, thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The proposed rule was published in the Federal Register on October 24, 2012 (77 FR 64920).

The Commission received 20 sets of comments in response to the proposed rule. The Commission received one comment on the reporting burden estimates. Idaho Power states that it does not anticipate adding new transmission lines to its vegetation management plan and, therefore, Idaho Power does not project a significant increase in outage reporting (quarterly report).

FERC also asked the public about a proposed change in the quarterly reporting requirements, which would no longer be identified as a separate Requirement under FAC-003-2. The following is an excerpt from the final rule:

NOPR Proposal

The Version 1 Standard, FAC-003-1, Requirements R3 and R4, require quarterly reporting to the Regional Entities of sustained transmission outages caused by vegetation. In the NOPR, the Commission explained that, while FAC-003-2 moves the reporting requirements to the “Additional Compliance Information” section as a Periodic Data Submittal, NERC maintains that the reporting requirements remain enforceable under NERC’s Rules of Procedure. In its Petition, NERC stated that it and Regional Entities can require entities to provide “such information as is necessary to monitor compliance with the reliability standards” under Section 401.3 of NERC’s Rules of Procedure.⁸ NERC asserted that “it has certain courses of action it may undertake as necessary to ensure the entity complies with the Rule, pursuant to NERC Rule of Procedure Section 100, including notifying the Commission of the entity’s failure to comply.”⁹ While

⁷ Details of the current ERO standard processes are available on the NERC website at http://www.nerc.com/docs/standards/sar/Appendix_3A_Standard_Processes_Manual_20100903_2_.pdf.

⁸ NOPR, 141 FERC ¶ 61,046 at P 93. Section 401.3 of NERC’s Rules of Procedure provides, “all Bulk Power System owners, operators and users shall provide to NERC and the applicable Regional Entity such information as is necessary to monitor compliance with the Reliability Standards.”

⁹ Id. (citing NERC Petition at 31-32. Section 100 of NERC’s Rules of Procedure

agreeing that, pursuant to Section 401.3, NERC and the Regional Entities can require transmission owners to submit quarterly reports of sustained transmission outages, the Commission asked for comment regarding the “courses of action” that are available to NERC to ensure compliance.

Comments

NERC responds that, as an example of a course of action, the NERC Rules of Procedure provide possible consequences for an entity’s failure to timely provide requested data – including application of a “severe” Violation Severity Level for a Reliability Standard Violation.¹⁰ Idaho Power suggests that other courses of action could include Regional Entity audits, spot checks and investigations of vegetation-caused outages.

Santa Clara asserts that non-compliance with the quarterly reporting requirement is analogous to non-compliance with a NERC request for data that is necessary to meet NERC’s section 215 obligations, pursuant to Section 1600 of NERC’s Rules of Procedure. Santa Clara thus maintains that NERC’s only recourse, pursuant to Section 1603 of NERC’s Rules, is to refer such non-compliance to the Commission for enforcement. According to Santa Clara, the Rules provisions cited in NERC’s Petition and the NOPR are not applicable because they pertain specifically to NERC’s compliance/enforcement program.

In a reply comment, NERC reiterates its authority under Section 400 of the NERC Rules of Procedure, claiming that the quarterly reporting obligation is “squarely” part of NERC’s compliance, monitoring and enforcement functions.

Commission Determination

We accept NERC’s explanation that it has “tools” to address non-compliance with the reporting requirements set forth in the “Additional Compliance Information” section of Reliability Standard FAC-003-2. As NERC indicates, in connection with a substantive violation of Requirements R1 or R2 of FAC-003-2 due to an

provides, “[e]ach Bulk Power System owner, operator, and user shall comply with all Rules of Procedure of NERC that are made applicable to such entities If NERC determines that a Rule of Procedure has been violated, or cannot practically be complied with, NERC shall notify [the Commission] and take such other actions as NERC deems appropriate to address the situation.”)

¹⁰ NERC Comments at 16 (citing NERC Rules of Procedure, App. 4C (Compliance Monitoring and Enforcement Program), at Att. 1).

encroachment that causes a sustained outage, NERC or a Regional Entity can attach a higher Violation Severity Level to that violation based on the failure to identify the encroachment in a required periodic report. Likewise, pursuant to the NERC Rules, the Regional Entity can devote more compliance resources to oversight of an entity that fails to comply with a reporting requirement.¹¹

We are not persuaded by Santa Clara's claims that NERC's "tools" do not apply because they pertain specifically to NERC's compliance/enforcement program. Rather, it is reasonable to view a transmission owner's failure to provide quarterly data as set forth in the Additional Compliance Information provision of FAC-003-2 as fitting within NERC's compliance, monitoring and enforcement function. The reporting of sustained outages caused by vegetation encroachment pertains to substantive compliance with the requirements of FAC-003-2 and will provide information that is necessary to monitor compliance with FAC-003-2 to the extent that transmission owners do not otherwise self-report possible violations. Thus, we find that the reporting of quarterly data set forth in the Additional Compliance Information provision falls within Section 401.3 of NERC's Rules of Procedure. Moreover, NERC's "tool" of assigning a higher violation severity level for a related violation of FAC-003-2 will occur in a compliance posture. The other "tool" identified by NERC, more stringent oversight of an entity that fails to comply with a reporting requirement, is simply a matter of Regional Entity discretion regarding how it chooses to apply compliance resources.

Ultimately, if these tools prove ineffective in gaining the cooperation of a transmission owner in timely reporting of sustained outages as set forth in FAC-003-2, NERC's Rules of Procedure provide for NERC seeking enforcement action by the Commission for a violation of NERC's Rules of Procedure. Such a violation would also violate section 39.2 of the Commission's regulations.¹²

The Commission summarized and responded to the other commenters in the final rule attached to this clearance package.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

¹¹ See *North American Electric Reliability Corp.*, 141 FERC ¶ 61,241, at PP 78-83 (2012) (approving NERC's revised Rules of Procedure, including Section 3.0 and CMEP Attachment 1 that specifies possible actions in response to an entity that fails to provide timely responses to an ERO or Regional Entity data request).

¹² 18 CFR § 39.2 (2012).

The Commission does not make payments or provide gifts for respondents related to this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

There are no specific assurances of confidentiality mentioned to respondents. The collected information eventually becomes part of NERC’s Vegetation Management Reports which are publically available.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE

This collection does not include any questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The new burden because of the final rule is based on our estimate below regarding the number of respondents is based on the NERC compliance registry as of July 24, 2012. According to the compliance registry, NERC has registered 330 transmission owners. The individual burden estimates are based on each transmission owner having to:

- Perform a one-time review of the revised Reliability Standard’s information collection requirements and to make any required modifications to its existing vegetation management plans and documentation procedures.
- Expend more effort in quarterly reporting, based on the increased burden to confirm whether or not reportable outages have occurred on lines not previously subject to Reliability Standard FAC-003-1 requirements (115 transmission owners).
- Expend more effort in recordkeeping associated with the standard’s annual vegetation inspection requirements, which is estimated to increase the inspection cycles (and the associated documentation to demonstrate compliance) for about one third of transmission owners (110 transmission owners).

FAC-003-2 (Transmission Vegetation Management)	Number of Transmission Owner Respondents (1)	Number of Responses per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
One time review and	330	1	16	5,280

modifications to existing documentation, plans and procedures				(one-time) ¹³
Quarterly Reporting	115	4	0.5	230 ¹⁴
Annual Vegetation Inspections Documentation (recordkeeping)	110	1	2	220
Total				5,830

Ongoing Burden Hour Cost Estimates for the proposed Changes:

- Total Annual Cost (Reporting + Record Retention): = \$16,100 + \$6,160 = \$22,260
 - o Quarterly Reporting Cost for Transmission Owners: = 230 hours @ \$70/hour¹⁵ = \$16,100
 - o Annual Vegetation Inspections Documentation: = 220 hours @ \$28/hour¹⁶ = \$6,160.

One-time Burden Cost:

- One-Time Review and Modification of Plans and Documentation: 5,280 hours @ \$52/hour¹⁷ = \$274,560.

¹³ In ROCIS metadata, this one-time burden is averaged over Years 1-3 (5,280 hrs./3), giving 1,760 hours.

¹⁴ While approval of FAC-003-2 is not expected to increase the number of reports made or the number of reportable outages experienced, some utilities may experience a very slight increase in the amount of time required to confirm whether or not any reportable outages occurred due the increased applicability of the standard to certain sub-200 kV transmission lines.

¹⁵ This figure is the average of the salary plus benefits for a manager and an engineer. The figures are taken from Bureau of Labor and Statistics at http://bls.gov/oes/current/naics3_221000.htm.

¹⁶ Wage figure is based on a Commission staff study of record retention cost.

¹⁷ This figure is the average of the salary plus benefits for an engineer and a forester. The figures are taken from Bureau of Labor and Statistics at http://bls.gov/oes/current/naics3_221000.htm.

The existing burden inventory for the entire FERC-725A collection is estimated at 1,829,523 burden hours. FERC 725A contains the information collection requirements for nearly all of the US wide Reliability Standards. The collection started in 2007 when FERC approved 83 Reliability Standards with an estimated 1,252,680 burden hours.

Since that time NERC has revised many of the original standards (as well as proposed new standards) resulting in many incremental additions to the total burden hours (a total of approximately 575,000 burden hours). One of the most notable additions occurred in 2011(ICR # 201012-1902-005) when we closely evaluated the number of respondents and found that there were approximately 500 more than we previously estimated. This adjustment increased the total burden for the FERC-725A by approximately 450,000 hours.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no start-up or other non-labor hour cost associated with this final rule. We assume that the information collection requirements associated with this final rule can be completed by entities using existing hardware and software. We assume that the recordkeeping requirement described in question 12 (annual vegetation inspections documentation) is predominately a labor cost as the generated records will not require extensive record storage facilities or server space.

There is an existing record keeping requirement contained in the FERC-725A, estimated at \$126,725.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The Regional Entities and NERC do most of the data processing, monitoring and compliance work for Reliability Standards. Any involvement by the Commission is covered under the FERC-725 collection (1902-0225) and is not part of this request or package.

The Commission does incur the costs associated with obtaining OMB clearance under the Paperwork Reduction Act for this Collection. FERC estimates the annual cost for this effort to be \$2,250.¹⁸

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

¹⁸ This is based on an estimate of work done by the Information Clearance team as well as other FERC staff as well as a small non-labor cost related to publishing material in the Federal Register.

The Commission has adopted a revised Reliability Standard which modifies existing requirements related to vegetation management by transmission owners. These modifications will result in some increased burden. The revisions to the standard, and its associated increase in burden, are necessary to ensure that all transmission lines identified as important to system reliability are protected against encroachment of vegetation that could lead to sustained outage. The exact method of providing the protection against encroachments is left to the discretion of the transmission owners. Through the addition of new applicable transmission lines, yearly inspections of lines, and accurate recordkeeping, the occurrence of sustained outages due to vegetation will remain low, and when they do occur, will be properly recorded.

These tasks are deemed necessary in order to maintain the reliable operation of nation’s transmission system.

Changes to the current burden hour inventory

We request to change the existing burden hour inventory based on the proposed burden hours in question 12 above. The one-time burden hours will be averaged over three years and removed from this collection after year three (5,280 hour/3=1,760 hours).

We also added the reoccurring burden hours to the collection (550 hours annually). The total burden hour increase is 2,310 hours for each of the next three years (1,760 hours + 550 hours = 2,310).

The following table shows the burden hour impact of the final rule in relation to the total inventory for the FERC-725A.

FERC-725A	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	2,370	2,040	-	+330
Annual Time Burden (Hr)	1,829,623	1,827,313	-	+2,210
Annual Cost Burden (\$)	126,725	126,725	-	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

FERC-725A (OMB Control No. 1902-0244) UPDATED: 4/8/13
Docket No. RM12-4-000, Final Rule issued March 21, 2013
RIN: 1902-AE58

There are no publications of data as part of this collection.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date because the information is not collected on a preformatted form or in any format that would allow for such a display.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission does not use statistical methods for this collection. Therefore the Commission does not certify that the collection uses statistical methods.