

## LIST OF COMMENTERS AND ABBREVIATIONS—Continued

Abbreviation	Name
NIPSCO .....	Northern Indiana Public Service Company.
PG&E .....	Pacific Gas and Electric Company.
PJM .....	PJM Interconnection, L.L.C.
Texas PUC ..	Public Utility Commission of Texas.
SCE .....	Southern California Edison Company.
Spectra .....	Spectra Energy Transmission, LLC.
SPP .....	Southwest Power Pool, Inc.
We Energies	Wisconsin Electric Power Company and Wisconsin Gas LLC.

[FR Doc. 2013-17682 Filed 7-24-13; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 40

[Docket No. RM 13-13-000]

## Regional Reliability Standard BAL-002-WECC-2—Contingency Reserve

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** Under section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) proposes to approve regional Reliability Standard BAL-002-WECC-2 (Contingency Reserve). The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed WECC regional Reliability Standard applies to balancing authorities and reserve sharing groups in the WECC Region and is meant to specify the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions. The Commission also proposes to approve the associated violation risk factors and violation severity levels, implementation plan, and effective date proposed by NERC and WECC. The Commission further proposes to retire the currently-effective WECC regional

Reliability Standard BAL-STD-002-0 (Operating Reserves) and to remove two WECC Regional Definitions, “Non-Spinning Reserve” and “Spinning Reserve,” from the NERC Glossary of Terms. In addition, the Commission proposes to direct NERC to submit an informational filing after the first two years of implementation of the regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection.

**DATES:** Comments are due September 23, 2013.

**ADDRESSES:** Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through <http://www.ferc.gov>.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****Notice of Proposed Rulemaking**

Issued July 18, 2013.

1. Under section 215 of the Federal Power Act (FPA), the Commission proposes to approve regional Reliability Standard BAL-002-WECC-2 (Contingency Reserve). The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed WECC regional Reliability Standard applies to balancing authorities and reserve sharing groups in the WECC

Region and is meant to specify the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.

2. The Commission proposes to approve the associated violation risk factors (VRFs) and violation severity levels (VSL), implementation plan, and effective date proposed by NERC and WECC. The Commission also proposes to retire the currently-effective WECC regional Reliability Standard BAL-STD-002-0 (Operating Reserves) and to remove two WECC Regional Definitions, “Non-Spinning Reserve” and “Spinning Reserve,” from the NERC Glossary of Terms.<sup>1</sup> Further, the Commission proposes to direct NERC to submit an informational filing after the first two years of implementation of the regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection.

**I. Background***A. Mandatory Reliability Standards*

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards that are subject to Commission review and approval.<sup>2</sup> Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.<sup>3</sup>

4. A Regional Entity may develop a Reliability Standard for Commission approval to be effective in that region only.<sup>4</sup> In Order No. 672, the Commission stated that:

As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.<sup>5</sup>

<sup>1</sup> North American Electric Reliability Corporation Definitions Used in the Rules of Procedure, Appendix 2 to the NERC Rules of Procedure (effective March 5, 2013) (NERC Glossary of Terms).

<sup>2</sup> 16 U.S.C. 824o.

<sup>3</sup> 16 U.S.C. 824o(e).

<sup>4</sup> 16 U.S.C. 824o(e)(4). A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO. See 16 U.S.C. 824o(a)(7) and (e)(4).

<sup>5</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 291, *order on reh'g*,

<sup>70</sup> Effective April 26, 2013, MISO changed its name from “Midwest Independent Transmission System Operator, Inc.” to “Midcontinent Independent System Operator, Inc.”

5. On April 19, 2007, the Commission accepted delegation agreements between NERC and each of the eight Regional Entities.<sup>6</sup> In the order, the Commission accepted WECC as a Regional Entity.

*B. NERC Reliability Standard BAL-002-1 (Disturbance Control Performance)*

6. In Order No. 693, the Commission approved NERC Reliability Standard BAL-002-0.<sup>7</sup> On January 10, 2011, the Commission approved a revised version of the NERC Reliability Standard, BAL-002-1 (Disturbance Control Performance), which NERC developed and submitted to address directives contained in Order No. 693.<sup>8</sup> The purpose of NERC Reliability Standard BAL-002-1 is to ensure that a balancing authority is able to use its contingency reserve to balance resources and demand and return Interconnection frequency within defined limits following a Reportable Disturbance.<sup>9</sup>

*C. WECC Regional Reliability Standard BAL-STD-002-0*

7. On June 8, 2007, the Commission approved WECC regional Reliability Standard BAL-STD-002-0, which is currently in effect.<sup>10</sup> The Commission stated that regional Reliability Standard BAL-STD-002-0 was more stringent than the NERC Reliability Standard BAL-002-0 because the WECC regional Reliability Standard required: (1) A more stringent minimum reserve requirement and (2) restoration of contingency reserves within 60 minutes, as opposed to the 90-minute restoration period required by the NERC Reliability Standard BAL-002-0.<sup>11</sup> The Commission directed WECC to make minor modifications to regional

Reliability Standard BAL-STD-002-0. For example, the Commission determined that: (1) Regional definitions should conform to definitions set forth in the NERC Glossary of Terms unless a specific deviation has been justified; and (2) documents that are referenced in the Reliability Standard should be attached to the Reliability Standards. The Commission also found that it is important that regional Reliability Standards and NERC Reliability Standards achieve a reasonable level of consistency in their structure so that there is a common understanding of the elements. Finally, the Commission directed WECC to address stakeholder concerns regarding ambiguities in the terms “load responsibility” and “firm transaction.”<sup>12</sup>

*D. Remanded WECC Regional Reliability Standard BAL-002-WECC-1*

8. On March 25, 2009, NERC submitted to the Commission for approval WECC regional Reliability Standard BAL-002-WECC-1 (Contingency Reserves). In Order No. 740, the Commission remanded regional Reliability Standard BAL-002-WECC-1.<sup>13</sup> In Order No. 740, the Commission identified five issues with remanded regional Reliability Standard BAL-002-WECC-1: (1) The restoration period for contingency reserve; (2) the calculation of minimum contingency reserve; (3) the use of firm load to meet the contingency reserve Requirement; (4) the use of demand-side management as a resource; and (5) miscellaneous directives.<sup>14</sup>

*1. Restoration Period for Contingency Reserve*

9. The Commission stated that, while the currently-effective WECC regional Reliability Standard BAL-STD-002-0 requires restoration of contingency reserve within 60 minutes, the remanded WECC regional Reliability Standard BAL-002-WECC-1 would have extended the restoration period to 90 minutes. The Commission determined that NERC and WECC did not justify the extension of the reserve restoration period from 60 minutes to 90 minutes or that such an extension created an acceptable level of risk within the Western Interconnection.

*2. Calculation of Minimum Contingency Reserve*

10. The Commission stated that WECC regional Reliability Standard

BAL-STD-002-0 currently requires that minimum contingency reserve must equal the greater of: (1) The loss of generating capacity due to forced outages of generation or transmission equipment that would result from the most severe single contingency or (2) the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation. The remanded WECC regional Reliability Standard BAL-002-WECC-1 included a similar requirement, except that instead of basing the calculation of minimum contingency reserve on the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation, the minimum contingency reserve calculation would be based on the sum of three percent of load (generation minus station service minus net actual interchange) plus three percent of net generation (generation minus station service).

11. WECC submitted eight hours of data from each of the four operating seasons (summer, fall, winter, and spring, both on and off-peak), which demonstrated that the proposed methodology for calculating minimum contingency reserve would reduce total contingency reserve required in the Western Interconnection for each of the eight hours assessed when compared with the methodology in the currently-effective WECC regional Reliability Standard BAL-STD-002-0.

12. The Commission accepted WECC's proposal, finding that “WECC's proposed calculation of minimum contingency reserves is more stringent than the national requirement and could be part of a future proposal that the Commission could find to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.”<sup>15</sup> The Commission observed, however, that “WECC also states that the proposed regional Reliability Standard does not excuse any non-performance with the continent-wide Disturbance Control Standard, which requires each balancing authority or reserve sharing group to activate sufficient contingency reserve to comply with the Disturbance Control Standard.”<sup>16</sup>

13. The Commission also stated that, if WECC resubmitted its proposed methodology for calculating minimum contingency reserve, WECC and NERC could support its proposal with “audits specifically focused on contingency

Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>6</sup> *North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, order on reh'g, 120 FERC ¶ 61,260 (2007).

<sup>7</sup> *Mandatory Reliability Standards for the Bulk Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, order on reh'g, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

<sup>8</sup> *North American Electric Reliability Corp.*, 134 FERC ¶ 61,015 (2011).

<sup>9</sup> The NERC Glossary of Terms defines Contingency Reserve as “[t]he provision of capacity deployed by the Balancing Authority to meet the Disturbance Control Standard (DCS) and other NERC and Regional Reliability Organization contingency requirements.” The NERC Glossary of Terms defines Reportable Disturbance as “[a]ny event that causes an [Area Control Error (ACE)] change greater than or equal to 80% of a Balancing Authority's or reserve sharing group's most severe contingency. The definition of a reportable disturbance is specified by each Regional Reliability Organization. This definition may not be retroactively adjusted in response to observed performance.”

<sup>10</sup> *North American Electric Reliability Corp.*, 119 FERC ¶ 61,260 (2007).

<sup>11</sup> *Id.* P. 53.

<sup>12</sup> *Id.* P. 56.

<sup>13</sup> *Version One Regional Reliability Standard for Resource and Demand Balancing*, Order No. 740, 75 FR 65,964, 133 FERC ¶ 61,063 (2010).

<sup>14</sup> Order No. 740, 133 FERC ¶ 61,063 at PP 26, 39, 49, 60, 66.

<sup>15</sup> *Id.* P. 39.

<sup>16</sup> *Id.*

reserves and whether the balancing authorities are meeting the adequacy and deliverability requirements . . . [t]his auditing also could address the concerns raised by some entities in WECC that the original eight hours of data provided in NERC's petition is insufficient to demonstrate that the proposed minimum contingency reserve requirements are sufficiently stringent to ensure that entities within the Western Interconnection will meet the requirements of NERC's continent-wide Disturbance Control Standard, BAL-002-0."<sup>17</sup>

### 3. Use of Firm Load To Meet Contingency Reserve Requirement

14. In the Notice of Proposed Rulemaking preceding Order No. 740, the Commission stated that, unlike the currently-effective regional Reliability Standard BAL-STD-002-0, the remanded regional Reliability Standard BAL-002-WECC-1 was not technically sound because it allowed balancing authorities and reserve sharing groups within WECC to use firm load to meet their minimum contingency reserve requirements once the reliability coordinator declared a capacity or energy emergency.<sup>18</sup> However, in Order No. 740 the Commission accepted WECC's proposal finding that, although remanded regional Reliability Standard BAL-002-WECC-1 allowed balancing authorities and reserve sharing groups to use "Load, other than Interruptible Load, once the Reliability Coordinator has declared a capacity or energy emergency," these entities would not be authorized to shed firm load unless the applicable reliability coordinator had issued a level 3 energy emergency alert pursuant to Reliability Standard EOP-002-2.1. The Commission directed WECC to develop revised language to clarify this point.<sup>19</sup>

### 4. Demand-Side Management as a Resource

15. The Commission determined that remanded regional Reliability Standard BAL-002-WECC-1 did not allow demand-side management that is technically capable of providing this service to be used as a resource for contingency reserve. The Commission directed WECC to develop modifications that would explicitly provide that demand-side management technically capable of providing this service may be used as a resource for

both spinning and non-spinning contingency reserve.<sup>20</sup>

### 5. Miscellaneous Directives

16. The Commission directed WECC to consider comments regarding the meaning of the term "net generation." The Commission also directed WECC to consider comments stating that the WECC regional Reliability Standard did not assign any responsibility or obligations on generator owners and generator operators, and that balancing authorities may be required to carry a disproportionate share of the contingency reserve obligation within the Western Interconnection.<sup>21</sup>

### E. Proposed Regional Reliability Standard BAL-002-WECC-2

17. On April 12, 2013, NERC and WECC petitioned the Commission to approve proposed regional Reliability Standard BAL-002-WECC-2 and the associated violation risk factors and violation severity levels, effective date, and implementation plan. The petition also requests retirement of the currently-effective WECC regional Reliability Standard BAL-STD-002-0 and removal of two WECC Regional Definitions, "Non-Spinning Reserve" and "Spinning Reserve," from the NERC Glossary of Terms. The petition states that the proposed WECC regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest because it satisfies the factors set forth in Order No. 672, which the Commission applies when reviewing a proposed Reliability Standard.<sup>22</sup>

18. The petition states that the Resource and Demand Balancing (BAL) group of Reliability Standards ensure that resources and demand are balanced to maintain Interconnection frequency within limits. The petition states that the purpose of NERC Reliability Standard BAL-002-1 (Disturbance Control Performance) is to ensure the balancing authority is able to use contingency reserve to balance resources and demand and return Interconnection frequency within defined limits following a Reportable Disturbance. The petition states that the purpose of the proposed WECC regional Reliability Standard BAL-002-WECC-2 is to provide a regional Reliability Standard that specifies the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.<sup>23</sup>

19. The petition states that the proposed regional Reliability Standard addresses the five issues identified in Order No. 740, which remanded the previously proposed WECC regional Reliability Standard BAL-002-WECC-1.<sup>24</sup>

20. First, the petition states that proposed regional Reliability Standard BAL-002-WECC-2, Requirement R1, includes a 60-minute restoration period for contingency reserve, which is the same as the currently-effective regional WECC Reliability Standard BAL-STD-002-0.<sup>25</sup>

21. Second, the petition includes two-years of additional data to support the method for calculating minimum contingency reserve proposed in WECC regional Reliability Standard BAL-002-WECC-2, Requirement R1, which is the same as the calculation proposed and accepted by the Commission in the remanded WECC regional Reliability Standard BAL-002-WECC-1.<sup>26</sup>

22. Third, the petition states that the proposed WECC regional Reliability Standard BAL-002-WECC-2, Requirement R1, was modified to clarify that balancing authorities and reserve sharing groups within WECC are subject to the same restrictions regarding the use of firm load for contingency reserve as balancing authorities elsewhere operating under the NERC Reliability Standards. The petition states that it has clarified the connection to the Energy Emergency Level 3 by incorporating language from Reliability Standard EOP-002-2.1, Attachment 1, Section B, into proposed WECC regional Reliability Standard BAL-002-WECC-2, Requirement R1.<sup>27</sup>

23. Fourth, the petition states that proposed WECC regional Reliability Standard BAL-002-WECC-2, Requirement R1, was modified to explicitly provide that demand-side management technically capable of providing the service may be used as a resource for contingency reserve.<sup>28</sup>

24. Fifth, the petition states that proposed WECC regional Reliability Standard BAL-002-WECC-2 replaces the term "net generation" with the phrase "generating energy values average over each Clock Hour." The petition states that the proposed regional Reliability Standard also includes a reference to Opinion No. 464, which addresses the issue of behind-the-meter generation, in response to comments raised in the Order No. 740

<sup>24</sup> *Id.* at 12–18.

<sup>25</sup> *Id.* at 12.

<sup>26</sup> *Id.* at 13–16.

<sup>27</sup> *Id.* at 18.

<sup>28</sup> *Id.* at 16–18.

<sup>17</sup> *Id.* P 40.

<sup>18</sup> *Id.* P 43.

<sup>19</sup> *Id.* PP 48–49.

<sup>20</sup> *Id.* P 61.

<sup>21</sup> *Id.* P 66.

<sup>22</sup> Petition, Exhibit A.

<sup>23</sup> Petition at 2.

rulemaking.<sup>29</sup> The petition also states that proposed WECC regional Reliability Standard BAL-002-WECC-2 allows for impacted balancing authorities and reserve sharing groups to enter into transactions to provide contingency reserve for another balancing authority or procure contingency reserve from another balancing authority to more equitably allocate generation for purposes of the reserve calculation. The petition further states that the NERC Functional Model, Version 5, more closely aligns the tasks in the proposed WECC regional Reliability Standard BAL-002-WECC-2 with balancing authorities than to generator operators.<sup>30</sup>

## II. Discussion

### A. Proposed WECC Regional Reliability Standard BAL-002-WECC-2

25. Pursuant to FPA section 215(d)(2), we propose to approve WECC regional Reliability Standard BAL-002-WECC-2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. For applicable entities in the WECC Region, proposed WECC regional Reliability Standard BAL-002-WECC-2 specifies the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions. Proposed WECC regional Reliability Standard is more stringent than the NERC Reliability Standard BAL-002-1 because the proposed regional Reliability Standard requires applicable entities to restore contingency reserve within 60 minutes following the Disturbance Recovery Period while the NERC Reliability Standard only requires restoration of contingency reserve within 90 minutes. In addition, the method for calculating minimum contingency reserve in the proposed regional Reliability Standard is more stringent than Requirement R3.1 in the NERC Reliability Standard BAL-002-1 because it requires minimum contingency reserve levels that will be at least equal to the NERC Reliability Standard minimum, equal to the most severe single contingency, and more often will be greater.<sup>31</sup> We also find that NERC and WECC addressed the

Commission's directives in Order No. 740.

### B. New Methodology of Calculating Minimum Contingency Reserve

26. While we propose to approve WECC regional Reliability Standard BAL-002-WECC-2, the Commission proposes to direct NERC to submit an informational filing following implementation of the proposed regional Reliability Standard that addresses the adequacy of contingency reserve in the Western Interconnection. Proposed WECC regional Reliability Standard BAL-002-WECC-2 includes a new methodology for calculating minimum contingency reserve based on the greater of the most severe single contingency or the sum of three percent of load plus three percent of net generation.

27. In the current WECC regional Reliability Standard BAL-STD-002-0, minimum contingency reserve is based on the greater of the most severe single contingency or the sum of five percent of load responsibility served by hydro generation and seven percent of the load responsibility served by thermal generation. In approving the currently-effective regional Reliability Standard, the Commission noted the importance WECC attached to the current methodology for calculating minimum contingency reserve to reliability in the Western Interconnection:

According to WECC, while applicable users, owners and operators in the Western Interconnection must comply with BAL-002-0, the corresponding regional Reliability Standard goes further and requires each balancing authority in the West to provide a minimum reserve of five percent of the loads served by hydro generation and seven percent of the loads served by thermal generation. WECC states that this regional minimum reserve requirement was developed to assure that there would be sufficient generation to sustain acceptable power system performance for various contingencies.<sup>32</sup>

28. To support the proposed new methodology for calculation of minimum contingency reserve based on three percent of load plus three percent of net generation, WECC provided "two years' worth of additional data showing the amount of contingency reserves that would be calculated for each Balancing Authority and Reserve Sharing Group under the proposed methodology."<sup>33</sup> WECC states that "during the two-year period of 2010-2012, the average increase/decrease in Contingency Reserve required under the existing

methodology juxtaposed to the proposed methodology was an average decrease of 137 MW across the Western Interconnection."<sup>34</sup> WECC explains that the 137 MW decrease represents ".000932 of WECC's peak load and .001934 of WECC's minimum load" within that two-year period.<sup>35</sup> Based on the data, WECC states that "implementation of the proposed methodology will, on average, reduce the amount of Contingency Reserve held within the Interconnection; however, the average change is so small in comparison to the load served within the Interconnection that it should have no adverse impact on reliability."<sup>36</sup>

29. While the data submitted in the petition shows an average decrease of 137 MW, the data also shows that the largest single decrease in contingency reserve equaled 826 MW during the two-year study period when comparing the current and proposed methodologies.<sup>37</sup> At the time of the 826 MW decrease (i.e., 9/15/10 at 14:00) the contingency reserve value using the current methodology for calculating minimum contingency reserve was 8259 MW versus 7434 MW using the proposed methodology. The 826 MW decrease represents a 10 percent decrease in contingency reserve at that time interval.<sup>38</sup> The data also show a widening gap over time (e.g., a difference of 114 MW at the beginning date but 192 MW at the end date).<sup>39</sup>

30. Recognizing that the new methodology will likely result in lower average contingency reserve levels, the Commission proposes to direct that NERC submit an informational filing to the Commission relating to contingency reserve levels in the Western Interconnection after the first two years of implementation of the proposed regional Reliability Standard. The Commission proposes to direct NERC, in consultation with WECC, to provide an assessment of minimum contingency reserve levels in the Western Interconnection following implementation of the new methodology. The informational filing should assess whether the new methodology for calculating minimum

<sup>34</sup> *Id.* at 15.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 16.

<sup>37</sup> Petition, Exhibit G (data point at date/time interval 9/15/10 at 14:00).

<sup>38</sup> Petition at 16.

<sup>39</sup> The 114 MW and 192 MW values are calculated by plotting a trend line on the contingency reserve data submitted by WECC using the existing methodology and plotting a trend line on the contingency reserve data submitted by WECC using the proposed methodology. The initial difference between the two trend lines is 114 MW while the difference at the end of the trend lines is 192 MW.

<sup>29</sup> *California Indep. Sys. Operation Corp.*, Opinion No. 464, 104 FERC ¶ 61,196 (2003).

<sup>30</sup> NERC, Reliability Functional Model, Version 5 (approved May 2010), available at [http://www.nerc.com/files/Functional\\_Model\\_V5\\_Final\\_2009Dec1.pdf](http://www.nerc.com/files/Functional_Model_V5_Final_2009Dec1.pdf).

<sup>31</sup> As stated in Order No. 740, the proposed WECC regional Reliability Standard does not excuse non-performance with NERC Reliability Standard BAL-002-1. Order No. 740, 133 FERC ¶ 61,063 at P 39.

<sup>32</sup> *North American Electric Reliability Corp.*, 119 FERC ¶ 61,260 at P 47.

<sup>33</sup> Petition at 13.

contingency reserve levels has had an adverse impact on reliability in the Western Interconnection. The informational filing should include the data that NERC and WECC use to assess the sufficiency of the minimum contingency reserve levels under the new methodology. Such data could include, but need not be limited to an increase or decrease in the "Average Percent Non-Recovery Disturbance Control Standards (DCS) Events,"<sup>40</sup> an increase or decrease in the average Contingency Reserve Restoration Period, an increase or decrease in the number of events larger than the minimum contingency reserve levels, and any other information that NERC or WECC deem relevant. The Commission proposes to direct NERC to submit the informational filing to the Commission 90 days after the end of the two-year period following implementation. NERC may choose to submit the informational filing sooner if NERC identifies issues with contingency reserve levels in the Western Interconnection that may require immediate action. The Commission will review the informational filing to determine whether any action is necessary. The Commission seeks comment from NERC, WECC, and interested entities on the proposed informational filing.

#### *C. Violation Risk Factors and Violation Severity Levels*

31. The petition states that each Requirement of the proposed WECC regional Reliability Standard BAL-002-WECC-2 includes one violation risk factor and one violation severity level and that the ranges of penalties for violations will be based on the sanctions table and supporting penalty determination process described in the Commission-approved NERC Sanctions Guideline. The Commission proposes to approve the proposed violation risk factors and violation severity levels for the Requirements of WECC regional Reliability Standard BAL-002-WECC-2

<sup>40</sup> See NERC, Metric AL2-4 (Average Percent Non-Recovery of Disturbance Control Standard (DCS) Events), available at <http://www.nerc.com/pa/RAPA/ri/Pages/DCSEvents.aspx>.

as consistent with the Commission's established guidelines.<sup>41</sup>

#### *D. Removal of Terms From NERC Glossary of Terms*

32. The petition states that proposed WECC regional Reliability Standard BAL-002-WECC-2 replaces the terms "Spinning Reserve" with "Operating Reserve-Spinning" and "Non-Spinning Reserve" with "Operating Reserve-Supplemental" to ensure comparable treatment of demand-side management with conventional generation, or any other technology, and to allow demand-side management to be considered as a resource for contingency reserve. The petition states that Operating Reserve-Spinning and Operating Reserve-Supplemental have glossary definitions that are inclusive of demand-side management, including controllable load. Accordingly, the petition seeks revision of the NERC Glossary of Terms to remove the two WECC Regional Definitions, Non-Spinning Reserve and Spinning Reserve. With the removal of Non-Spinning Reserve and Spinning Reserve from the proposed WECC regional Reliability Standard BAL-002-WECC-2, the Commission proposes to approve removal of those WECC Regional Definitions from the NERC Glossary of Terms.

#### *E. Implementation Plan and Effective Date*

33. The petition proposes that WECC regional Reliability Standard BAL-002-WECC-2 become effective on the first day of the third quarter following applicable regulatory approval. The petition states that the proposed WECC regional Reliability Standard may require execution of contracts by some applicable entities before implementation can occur, and the proposed effective date allows time for applicable entities to finalize needed contracts. The petition also proposes to retire the currently-effective WECC regional Reliability Standard BAL-STD-002-0 on the proposed effective date. The Commission proposes to accept the

<sup>41</sup> *North American Electric Reliability Corp.*, 135 FERC ¶ 61,166 (2011).

petition's implementation plan and effective date for the proposed WECC regional Reliability Standard BAL-002-WECC-2.

### **III. Information Collection Statement**

34. The following collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).<sup>42</sup> OMB's regulations require approval of certain information collection requirements imposed by agency rules.<sup>43</sup> Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

35. We solicit comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

36. *Public Reporting Burden:* The burden and cost estimates below are based on the need for applicable entities to revise documentation, already required by the current WECC regional Reliability Standard BAL-STD-002-0, to reflect certain changes in the proposed WECC regional Reliability Standard BAL-002-WECC-2. Our estimates are based on the NERC Compliance Registry as of May 30, 2013, which indicates that 36 balancing authorities and reserve sharing groups are registered within WECC.

<sup>42</sup> 44 U.S.C. 3507(d).

<sup>43</sup> 5 CFR 1320.11.

Improved requirement	Year	Number of respondents <sup>44</sup>	Number of annual responses per respondent	Average burden hours per response	Estimated total annual burden hours
		(1)	(2)	(3)	(1)*(2)*(3)
Update Existing Documentation to Conform with Proposed Regional Reliability Standard .....	1	36	1	<sup>45</sup> 1	36
Total .....					36

*Estimated Total Annual Burden Hours for Collection:* (Compliance/Documentation) = 36 hours.

Costs to Comply with PRA:

- Year 1: \$2,160.
- Year 2 and ongoing: \$0.

37. Year 1 costs include updating existing documentation, already required by the current WECC regional Reliability Standard BAL-STD-002-0, to reflect changes in the proposed WECC regional Reliability Standard BAL-002-WECC-2. For the burden category above, the cost is \$60/hour (salary plus benefits) for an engineer.<sup>46</sup> The estimated breakdown of annual cost is as follows:

- Year 1
  - Update Existing Documentation to Conform with Proposed Regional Reliability Standard: 36 entities \* (1 hours/response \* \$60/hour) = \$2,160.

The Commission seeks comment on the costs estimates to comply with the paperwork requirements in the proposed regional Reliability Standard.

*Title:* FERC-725E, Mandatory Reliability Standards—WECC (Western Electric Coordinating Council)

*Action:* Proposed Collection of Information

*OMB Control No:* 1902-0246

*Respondents:* Business or other for-profit, and not-for-profit institutions.

*Frequency of Responses:* One-time.

*Necessity of the Information:* The proposed regional Reliability Standard BAL-002-WECC-2, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation’s Bulk-

Power System. Specifically, the proposal ensures that balancing authorities and reserve sharing groups in the WECC Region have the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.

*Internal review:* The Commission has reviewed the proposed regional Reliability Standard BAL-002-WECC-2 and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

38. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: [DataClearance@ferc.gov](mailto:DataClearance@ferc.gov), phone: (202) 502-8663, fax: (202) 273-0873].

39. Comments concerning the information collections proposed in this Notice of Proposed Rulemaking and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address:

[oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). Please reference OMB Control Number 1902-0244 and the docket numbers of this Notice of Proposed Rulemaking (Docket No. RM13-13-000) in your submission.

**IV. Environmental Analysis**

40. 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.<sup>47</sup> 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 substantially change the effect of the regulations being amended.<sup>48</sup> The actions proposed here fall within this categorical exclusion in the Commission’s regulations.

**V. Regulatory Flexibility Act**

41. The Regulatory Flexibility Act of 1980 (RFA)<sup>49</sup> generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. As discussed above, proposed regional Reliability Standard BAL-002-WECC-2 would apply to 36 registered balancing authorities and reserve sharing Groups in the NERC Compliance Registry. Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA-861 indicates that, of the 36 registered balancing authorities and reserve sharing groups, two may qualify as small entities.<sup>50</sup>

42. The Commission estimates that, on average, each of the two affected small entities will have an estimated cost of \$60 in Year 1 and no further ongoing costs. These figures are based on information collection costs plus additional costs for compliance.

43. The Commission does not consider this to be a significant economic impact for small entities because it should not represent a significant percentage of the operating

<sup>44</sup> NERC balancing authorities and reserve sharing groups are responsible for the improved requirement. Further, if a single entity is registered as both a balancing authority and reserve sharing group, that entity is counted as one unique entity.

<sup>45</sup> The Commission bases the hourly reporting burden on the time for an engineer to implement the Requirements of the proposed rule.

<sup>46</sup> Labor rates from Bureau of Labor Statistics (BLS) ([http://bls.gov/oes/current/naics2\\_22.htm](http://bls.gov/oes/current/naics2_22.htm)). Loaded costs are BLS rates divided by 0.703 and rounded to the nearest dollar (<http://www.bls.gov/news.release/eccec.nr0.htm>).

<sup>47</sup> Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

<sup>48</sup> 18 CFR 380.4(a)(2)(ii).

<sup>49</sup> 5 U.S.C. 601-612.

<sup>50</sup> The RFA definition of “small entity” refers to the definition provided in the Small Business Act (SBA), which defines a “small business concern” as a business that is independently owned and operated and that is not dominant in its field of operation. See 15 U.S.C. 632 (2006). According to the Small Business Administration, an electric utility is defined as “small” if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

budget. Accordingly, the Commission certifies that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this certification.

## VI. Comment Procedures

44. 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 September 23, 2013. Comments must refer to Docket No. RM13-13-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

45. 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 native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

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

47. 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

48. 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 the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

49. From the Commission'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.

50. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

By direction of the Commission.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013-17816 Filed 7-24-13; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1240

[Docket No. FDA-2013-N-0639]

#### Turtles Intrastate and Interstate Requirements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend its regulations regarding the prohibition on the sale, or other commercial or public distribution, of viable turtle eggs and live turtles with a carapace length of less than 4 inches to remove procedures for destruction as FDA believes it is not necessary to routinely demand this destruction to achieve the purpose of the regulations. This action would reduce the need for investigator training and the time for the care and humane destruction of these animals.

**DATES:** Submit either electronic or written comments by October 8, 2013. If FDA receives any significant adverse comments, the Agency will publish a document withdrawing the direct final rule within 30 days after the comment period ends. FDA will then proceed to respond to comments under this proposed rule using the usual notice and comment procedures.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA-2013-N-0639, by any of the following methods:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### *Written Submissions*

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier (For paper or CD-ROM submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Agency name and Docket No. FDA-2013-N-0639 for this rulemaking. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. For additional instructions on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Dillard Woody, Center for Veterinary Medicine (HFV-231), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9237, email: [dillard.woody@fda.hhs.gov](mailto:dillard.woody@fda.hhs.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

FDA published regulations in § 1240.62 (21 CFR 1240.62) on May 23, 1975 (40 FR 22543), that ban the sale and distribution of viable turtle eggs and turtles with a carapace length of less than 4 inches to stop the spread of turtle-associated salmonellosis in humans, especially in young children.

The regulations provide that viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution. The ban does not apply to such distribution for bona fide scientific, educational, or exhibitional purposes other than use as pets; to such distribution not in connection with a business; and to such distribution intended for export only. In addition, the turtle ban does not apply to marine turtles and their eggs.

The regulations further provide that any turtle eggs or live turtles with a carapace length of less than 4 inches