

# All About Retirement Plan Compliance April, 2011

# What We'll Cover

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- The Plans
- Compliance – Why and What?
- What Is My Responsibility?
- What If I Make a Mistake?

## 401(k) Pension Plan and Retirement Security Plan

- Multiple Employer Plans
  - Permit co-ops to customize plan options
  - Allow co-ops to fund benefits only for their employees
  - Provide portability of employment service
- Qualified under Section 401(a)
  - Provide favorable tax status

# The Plans

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- Subject to Regulation and Government Oversight
  - ERISA
  - Department of Labor (DOL)
  - Internal Revenue Service
  - Pension Benefit Guaranty Corp (PBGC)
  - Other Laws & Entities
    - Age Discrimination in Employment Act
    - U.S. Courts

# Compliance – Why and What?

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- To Ensure We Maintain Qualified Status
  - Comply with the laws
  - Follow the governing documents of the plans
  - Correct errors timely using approved methods
    - Failure of one participating employer can impact the qualified status of the entire plan.

# Compliance – Why and What?

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- NRECA's Role
  - Keep abreast of regulatory changes
  - Update governing documents
  - Complete annual reporting and disclosure documents
  - Complete annual nondiscrimination testing
  - Assist co-ops with plan administration

# How Do I Comply?

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- Plan Design
  - Ensure an appropriate percentage of employees are covered
  - Ensure benefits or contributions do not favor Highly Compensated Employees (HCEs)
- Administration
  - Follow the terms of the Plans and adoption agreements

## Features that can cause plan designs to fail:

- Providing different benefits or contributions for different groups of nonunion employees
  - HCEs may receive a higher benefit or contribution
- Creating eligibility parameters that will cause testing failure
  - Excluded classes
    - Part-time employees
    - Employees hired after a certain date
    - Subsidiaries

# Plan Design

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So, mistakes happen.

Who Ensures Compliance?

# Ensuring Plan Design Compliance

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## Procedure:

- Contact Relationship Manager to request plan design change (at least 60 days)
- Discuss options available and likelihood of testing problems given certain choices
- Have compliance review plan design and advise on potential problems
- Determine appropriate plan design
- Implement new plan

# Ensuring Plan Design Compliance

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NRECA, as the plan sponsor, must ensure that the plans are in compliance so that all members receive the benefits of a tax favored retirement plan.

NRECA Compliance will review proposed plan design changes and will notify cooperatives of the feasibility of plan designs and the likelihood they will present testing problems.

# Plan Administration

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## Plan Administration Includes:

- Timely enrolling eligible employees into plans
- Making plan contributions in accordance with regulations and adoption agreement.
- Applying eligibility criteria per plan documents.
- Distribution of required notices to employees.
- Submission of annual questionnaire and W-2 information

## Mistakes That Can Happen:

- Refer to the handout for some common errors, how they happen and what can be done to correct them.
  - Some errors may be self-corrected as prescribed by Employee Plans Compliance Resolution System (EPCRS)
  - Other errors may require correction through the Voluntary Fiduciary Compliance Program (VFCP)

# Compliance Summary

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## Compliance Made Easy:

- Consult with NRECA before deciding on plan design changes.
- Administer the plan in accordance with adoption agreement elections.
- Make sure to provide necessary information to compliance annually (salary data and questionnaire).
- Distribute notices timely.
- When in doubt, ask.

# Questions?

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