

March 16, 2010

**Summary of Principal Proposed Changes to
NERC Rules of Procedure and
Appendices 4A, 4B, 4C, 5A and 5B**

This document provides a summary of the principal substantive proposed revisions to the NERC Rules of Procedure (ROP) Sections 100 – 1600, and Appendices 4A, 4B, 4C, 5A and 5B. This document does not provide a comprehensive listing of every proposed revision, many of which are being made for simplification of the documents, more consistent use of defined terms, moving provisions to different sections and/or consolidation of material from multiple sections in one place, greater consistency among different documents that address the same topic, conforming revisions to cross references, and similar reasons.

Rules of Procedure, Sections 100-1600

Sections 100 – 300

No changes have been made in Sections 100, 200 or 300.

Section 400 – Compliance Enforcement

A number of provisions have been deleted from Section 400, particularly in Section 403, because the subject matters of the deleted provisions are covered in greater detail in Appendix 4C, Compliance Monitoring and Enforcement Program. References to Appendix 4C have been provided where appropriate. The provisions are being deleted from Section 400 to avoid possible inconsistencies and confusion due to having the subject matter covered in two different places in the ROP. Appendix 4C should be the authoritative source with respect to compliance monitoring and enforcement program (CMEP) procedures and requirements. Provisions that have been deleted from Section 400 for this reason include former Sections 403.12, 403.13, 403.15, 403.18, 403.19, 404.2, 407.3, and 408.

As a result of the deletion of provisions for the reasons stated above, and to eliminate redundancy due to having the same topic addressed in different places in Section 400, provisions on several topics have been moved to and/or consolidated in Section 401. These include Confidential Information (Section 401.10), Public Posting (Section 401.11), and Violation Information Review (Section 401.12).

The requirement for NERC audits of regional entity compliance monitoring and enforcement programs has been changed from at least every 3 years to at least every 5 years. (Section 402.1.3)

The provision requiring NERC to conduct re-audits of registered entities, as a means of monitoring regional entities' performance of their compliance monitoring and enforcement programs, has been deleted. (Former Section 402.1.3.2) This provision was potentially burdensome to the registered entities that were subject to re-audit, and NERC has other means to effectively monitor regional entities' performance of their compliance monitoring and enforcement programs.

References to “possible violations” have been added throughout Section 400. This is consistent with the revised framework for enforcement actions established in the CMEP consisting of “preliminary screens,” “possible violations,” “alleged violations,” and finally “confirmed violations.” This framework is described in the summary of changes to Appendix 4C, below.

The term “compliance violation investigation” (one of the eight CMEP processes) has been changed to “compliance investigation.” The same change has been made in Appendix 4C.

Text has been added in Section 402.5 to conform the reference to remedial action directives to the definition of this term in the CMEP, *i.e.*, a remedial action directive must be immediately necessary to protect the reliability of the bulk power system from an imminent threat.

The initial paragraph of Section 403 has been revised to specify that each Regional Entity must use the NERC uniform CMEP (Appendix 4C), except to the extent of any deviations stated in the Regional Entity’s delegation agreement. A similar revision is made in Section 403.15.

Section 403.3, Delegation of Authority, has been revised to state that a Regional Entity may sub-delegate CMEP duties to other entities by agreement with express approval of NERC and of FERC or other appropriate governmental authority.

In several sections, references to “industry experts” have been changed to “industry subject matter expert.” (This change has also been made in other parts of the ROP, *e.g.*, Section 502.2.2.6.) These changes are consistent with revisions to the CMEP to change references to “industry volunteers” to “industry subject matter experts” (*e.g.* in provisions identifying who may participate in compliance audits as an audit team member or an observer).

A new Section 403.10.2 has been added to specify that the Regional Entity or NERC has the authority to request information from bulk power system owners, operators, and users independently of any compliance monitoring and enforcement processes in Appendix 4C, for purposes of determining whether to pursue one such process in a particular case and/or validating in the enforcement phase of a matter the conclusions reached through the CMEP processes. Authority for this provision with respect to U.S. entities is grounded in FERC’s ERO regulations at 18 C.F.R. §39.2(d). This provision clarifies the authority of the Regional Entity or NERC to obtain information from a Regional Entity without formally initiating one of the eight discovery processes specified in the CMEP, in order to, for example, determine whether a formal CMEP process should be initiated or that there is no basis for initiating a formal process.

Section 403.11.2 has been modified to specify that compliance audits of bulk power system owners and operators with primary reliability responsibility will include a component at the audited entity’s site (as opposed to being “performed on” the audited entity’s site).

Section 403.12, now titled “Confidentiality of Compliance Monitoring and Enforcement Processes,” has been revised (i) to refer generally to all CMEP processes, not just to compliance audits and compliance [violation] investigations, (ii) to state expressly (as provided in the CMEP) that NERC and the Regional Entities shall publish schedules of compliance audits, notices of penalty, and settlement agreements, and (iii) to provide that NERC and the Regional

Entities may publicly disclose information of general applicability and usefulness to bulk power system owners, operators, and users concerning reliability and compliance matters, so long as specific allegations or conclusions regarding possible violations or alleged violations of reliability standards are not disclosed.

Section 404.3 has been revised to state that appeals may be taken through the NERC appeals process from a decision of a Regional Entity hearing body with respect to a contested mitigation plan component. This revision is consistent with Appendix 4C.

Section 407.1 has been revised to state the basis on which NERC will review a Regional Entity's determinations of penalties, sanctions and remedial actions for violations of reliability standards.

Section 500 – Organization Registration and Certification

The NERC *Statement of Compliance Registry Criteria* is being added to the ROP as Appendix 5B. As a result of this addition, the NERC *Organization Registration and Certification Manual*, formerly Appendix 5, will now be Appendix 5A.

In Section 501.1.1, the list of reliability functions for which entities may be registered is being eliminated, to avoid the need to amend this section if new reliability functional categories are added, or existing categories are deleted, in the future.

Consistent with the addition of the *Statement of Compliance Registry Criteria* as an Appendix to the ROP, the description of the factors to be considered in determining whether to register an entity is being deleted from Section 501.1.2 and replaced with a reference to Appendix 5B.

In Section 503.2, the following provision has been deleted: "Entities seeking registration shall contact the regional entity in which they operate to become registered and, if necessary, certified." Pursuant to revisions in the CMEP and in the delegation agreements, NERC will be taking responsibility for the registration process, including for maintaining a single compliance registry (as opposed to a consolidated registry of individual compliance registries maintained by each Regional Entity). The Regional Entities will no longer maintain individual compliance registries for their respective regions.

Other proposed changes to Section 500 and Appendix 5A are already under consideration through a separate process. The documents included in the instant posting do not reflect any of these proposed changes.

Sections 600 – 700

No changes have been made in Sections 600 or 700.

Section 800 – Reliability Assessment and Performance Analysis

In Sections 807, Analysis of Major Events, and 808, Analysis of Off-Normal Events, Potential System Vulnerabilities, and System Performance, subsections have been added to specify that

bulk power system owners, operators, and users shall provide NERC and the applicable Regional Entities with such information as is necessary to enable NERC and the applicable Regional Entities to carry out their responsibilities under these sections. Authority for these added provisions with respect to U.S. entities is found in FERC's ERO regulations at 18 C.F.R. §39.2(d).

Sections 900 – 1000

No changes have been made in Sections 900 or 1000, other than the correction of a typographical error in Section 1002.2.5.

Section 1100 – Annual NERC Business Plans and Budgets

Revisions have been made to Section 1103, 1104 and 1105 so that the text more accurately describes the business plan and budget preparation processes, schedule and management, and the contents of the NERC and Regional Entity business plans and budgets, as they have evolved through four business plan and budget preparation cycles. The revisions to Section 1104, Submittal of Regional Entity budgets to NERC, are consistent with revisions being made to the delegation agreements including Exhibit E, Funding, to the delegation agreements.

In Section 1105.1, the requirement that the annual business plan and budget filings with FERC include “the previous year’s audited financial statements,” has been deleted. NERC and the Regional Entities will now be filing their audited financial statements for the previous year with FERC as part of the annual budget-to-actual cost reconciliation filing that is now due in late May of the following year.

Section 1107.2 has been revised to specify that penalty monies received prior to July 1 shall be used as an offset to the NERC or Regional Entity budget for the following year, and penalty monies received on or after July 1 shall be used as an offset to the NERC or Regional Entity budget for the second following year. This is the approach that has been heretofore followed by NERC and the Regional Entities (due to the timing of the budgeting process which requires submission of the final budgets for the following year to FERC by approximately August 22), but it has not previously been stated in the ROP.

Sections 1107.1 and 1107.3 have been revised to allow different dispositions of penalty monies received by a Regional Entity or NERC than the standard disposition provided for in Section 1107, if specified in the delegation agreement or other contract approved by NERC and FERC or as otherwise approved by NERC and FERC.

Section 1108 has been revised to state expressly that a request for approval of an amended or supplemental budget and a supplemental assessment can be initiated by a Regional Entity as well as by NERC. This provision is implicit in the existing ROP and FERC regulations (18 C.F.R. §39.4(d)), and NERC has previously filed several amended or supplemental budget and assessment requests with FERC at the behest of Regional Entities.

Section 1200 – Regional Delegation Agreements

Section 1205 has been revised to provide that (i) sub-delegation of a Regional Entity’s duties and responsibilities can be allowed with approval of NERC and of FERC or other appropriate ERO governmental authority, and (ii) Regional Entities may share resources with each other so long as such arrangements do not result in cross-subsidization or in any sub-delegation of authorities.

Section 1207 has been revised to provide that NERC will audit each Regional Entity every five years, rather than every three years. This change is consistent with provisions of the delegation agreements that specify the renewal terms will be five years in length (as opposed to the shorter initial terms). Text has also been added to reference recognized auditing standards as potential bases for conducting these audits.

Section 1208 has been added to provide a procedure by which a registered entity can request to have its registration transferred from one Regional Entity to another Regional Entity. As detailed in new Section 1208, this process requires a request by the registered entity to the two Regional Entities, consultation between the Regional Entities, consideration and approval by the NERC Board of Trustees, and approval by FERC of the resulting amendments to the two Regional Entities’ delegation agreements with NERC. Section 1208 also identifies information to be considered by the Regional Entities and NERC in evaluating whether the requested transfer should be approved.

Sections 1300 – 1600

No changes have been made in Sections 1300, 1400, 1500 or 1600.

Appendix 4A – Audit of Regional Entity Compliance Programs

Appendix 4A has been revised to provide more detail and specificity to the schedule and process by which NERC audits Regional Entities’ compliance with the CMEP. Additionally, Appendix 4A will now provide for such audits to be conducted every five years rather than every three years.

Appendix 4B – Sanction Guidelines

In general, the revisions to Appendix 4B are for the purpose of conformity with revisions being made to Section 400 of the ROP and to the CMEP in Appendix 4C, such as (i) use of the terminology “possible violation,” “alleged violation” and “confirmed violation,” and (ii) conformity with the definition of “remedial action directive” in Appendix 4C (*see* Sections 6.1, 6.4, 6.5 and 6.7).

Section 3.3 has been revised to specify that a Regional Entity or NERC may decline to enter into or continue settlement discussions with a registered entity concerning a violation when the violation has become a confirmed violation. This is consistent with a proposed revision to Section 5.6 of Appendix 4C.

Appendix 4C – Compliance Monitoring and Enforcement Program

Please note that none of the process charts in Appendix 4C have been revised for this posting to conform to the proposed changes to the text.

Section 1.0 -- Introduction

The sentence “This is accomplished through compliance monitoring and rigorous proactive Compliance Audits” has been deleted, since the CMEP is comprised of more than just these processes.

Section 1.1 -- Definitions

A statement has been added that capitalized terms used in Appendix 4C shall have the meanings set forth in Section 200 of the ROP or as set forth in the Definitions section of Appendix 4C. This text recognizes that some defined terms have been imported from Section 200 of the ROP. As a result, some terms formerly not capitalized are now capitalized, because they are defined in Section 200 of the ROP (*e.g.*, Bulk Power System).

A number of definitions have been revised to remove substantive requirements that were included within the definition (*e.g.*, Required Date (1.1.26)).

The defined term “Compliance Violation Investigation” has been changed to “Compliance Investigation” (Section 1.1.8)

The definition of Confirmed Violation has been revised to include the admission to the violation in a settlement agreement within the definition of this term. (Section 1.1.9)

A number of new defined terms have been added, and some existing defined terms modified, to incorporate the progression of steps in the compliance enforcement process reflected in revised Appendix 4C, *i.e.*, Preliminary Screen, Possible Violation, Alleged Violation, and Confirmed Violation. New or modified definitions for this purpose include Alleged Violation (1.1.1), Notice of Alleged Violation (1.1.15), Notice of Confirmed Violation (1.1.17), Notice of Possible Violation (1.1.19), Possible Violation (1.1.21), and Preliminary Screen (1.1.22).

- The Preliminary Screen is “an initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted . . . for the purpose of determining whether a Possible Violation exists,” and consists of review of three specific topics listed in Section 1.1.22.
- A Possible Violation is the identification, using one of the compliance monitoring and enforcement processes in Section 3.0 of Appendix 4C, of a possible failure by a Registered Entity to comply with a reliability standard that is applicable to the Registered Entity. (1.1.21) The definition has been added to achieve consistency among the Regional Entities. The concept of a possible violation is not new, and does

not add a new step to the compliance process. From the beginning of the program, FERC has required that NERC and the Regional Entities report possible violations to FERC on a non-public basis.

- The Notice of Possible Violation, issued to the Registered Entity, states that a Possible Violation has been identified, provides a brief description of the Possible Violation, including the Reliability Standard requirement(s) and the date(s) involved, and directs the Registered Entity to retain and preserve all data and records relating to the Possible Violation.

The definition of NERC Compliance Registry (1.1.13) has been expanded, and now includes a reference to new Appendix 5B, *Statement of Compliance Registry Criteria*. The defined term Regional Compliance Registry (formerly 1.1.15) has been deleted. NERC will maintain the single compliance registry for the entire Bulk Power System.

Other new defined terms that have been added include End Date (1.1.10), Notice of Completion of Enforcement Action (1.1.16), and Notice of Penalty (1.1.18).

Section 2.0 – Identification of Organizations Responsible for Complying with Reliability Standards

The revisions to the first five paragraphs of Section 2.0 reflect the revised roles of NERC and the Regional Entities in registering entities and maintaining the Compliance Registry. NERC will now be responsible for registering entities and for maintaining the single Compliance Registry for the entire Bulk Power System; the Regional Entities will no longer maintain individual compliance registries, but will continue to be responsible to provide information to NERC for use in registering entities and in maintaining and revising the Compliance Registry. These revisions also reflect the addition of the *Statement of Compliance Registry Criteria* as Appendix 5B to the ROP.

Section 3.1 – Compliance Audits

The revisions to the Compliance Audit process steps in Section 3.1.1 reflect the revised, and standardized, processing in which the initial step performed by the Compliance Enforcement Authority (CEA – usually, the Regional Entity) in processing a potential noncompliance with a Reliability Standard is a Preliminary Screen, which may result in identification of a Possible Violation and issuance of a Notice of Possible Violation to the Registered Entity. Similar revisions appear in other subsections of Section 3.0 describing the other CMEP processes.

Section 3.1.4, Scope of Compliance Audits, has been broken into several subsections.

- The text now in Section 3.1.4.1 has been revised to eliminate the reference to inclusion in a Compliance Audit of Reliability Standards identified in the NERC Implementation Plan for the three previous years; however, it continues to be the case that a Compliance Audit may include any Reliability Standard that is applicable to the Registered Entity.

- Section 3.1.4.2 provides that, generally, a Compliance Audit will cover, and the Registered Entity's data and information must show compliance with the Reliability Standards that are the subject of the Compliance Audit for, the period from the conclusion of the prior Compliance Audit (or the later of June 18, 2007 or the Registered Entity's registration date, if there is no previous Compliance Audit), to the End Date specified by the Regional Entity for the current Compliance Audit. However, the start date of the Compliance Audit coverage period may be later with respect to Reliability Standards for which another CMEP process was conducted for the Registered Entity since the last Compliance Audit.
- Section 3.1.4.3 specifies that a Compliance Audit will include a review of any Mitigation Plans the Registered Entity has not yet completed, for the purpose of determining if the Registered Entity is making adequate progress towards completion.

Section 3.1.5, Conduct of Compliance Audits, has also been broken into several subsections. These subsections address the composition of and requirements for Compliance Audit team members; who may participate as Compliance Audit observers; and the process for the Registered Entity to object to audit team members. Section 3.1.5.3 now recognizes that (i) compliance staff of Regional Entities other than the Regional Entity conducting the audit may participate as audit team members or observers, and (ii) at the request of the Registered Entity, representatives of other Registered Entities may attend the audit for educational purposes.

Section 3.4.1 – Compliance Investigation Process Steps

Section 3.4.1 concerning Compliance Investigation [formerly Compliance Violation Investigation] Process Steps has been revised to specify that the CEA may require the Registered Entity (i) to provide a verification by an officer, employee, attorney, or other authorized representative attesting to the accuracy, completeness and truth of the Registered Entity's responses to the CEA's requests for information, and (ii) to produce one or more officers, employees, or other authorized representatives to be interviewed or provide testimony under oath concerning the matters that are the subject of the Compliance Investigation. In addition, the CEA shall determine whether representatives of the Registered Entity shall be allowed to be present when an interview is taking place or testimony is being taken, and whether and by what means the interview or testimony shall be recorded.¹

Section 3.6.1 – Periodic Data Submittals Process Steps

Section 3.6.1, Periodic Data Submittals Process Steps, has been revised to specify that the CEA will give the Registered Entity an opportunity to comment on the CEA's draft assessment of the Periodic Data Submittal only if the draft assessment indicates there may be a Possible Violation.

¹See *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements, and Accepting Regional Entity 2007 Business Plans*, 119 FERC ¶61,060 (2007), at P 71.

Further, the CEA will not notify the Registered Entity of the results of the assessment if no Possible Violations have been identified.

Section 3.8 -- Complaints

Section 3.8 has been revised to provide that the CEA's review of a Complaint will be for the purpose of determining whether any other CMEP process should be initiated, not just a Compliance Investigation.

Section 5.0 – Enforcement Actions

The revisions to Section 5.0 incorporate the revised, standardized steps for processing evidence of a potential noncompliance discovered by the CEA through one of the CMEP processes, through to Confirmed Violation stage if applicable. Although the Regional Entities and NERC have generally been using these process steps, the proposed revisions to Appendix 4C (and to the pertinent provisions of the ROP) will standardize these process steps and provide a clear statement of them in the CMEP for the benefit of Registered Entities. Specifically, upon discovery of evidence of a potential noncompliance with a Reliability Standard, the CEA will follow the following process steps.

- Preliminary Screen to determine if there is a Possible Violation. The Preliminary Screen consists of determining whether (i) the entity allegedly involved in the potential noncompliance is a Registered Entity, (ii) the Reliability Standard requirement to which the potential noncompliance relates is applicable to the entity and is enforceable, and (iii) the evidence of potential noncompliance is not already the subject of an existing enforcement action involving the entity. (Section 5.1)
- Issuance of Notice of Possible Violation to the Registered Entity (assuming the Preliminary Screen results in an affirmative determination).² The Notice of Possible Violation includes a direction to the Registered Entity to retain and preserve all data and records relating to the Possible Violation. At this point the CEA enters the Possible Violation into the NERC compliance reporting and tracking system (thereby reporting it to NERC); NERC in turn reports the Possible Violation to the NERC BOTCC and to FERC, on a confidential basis. (Section 5.1)
- Assessment of the Possible Violation. The CEA conducts an assessment of the facts and circumstances surrounding the Possible Violation to determine whether evidence exists to indicate the Registered Entity has violated the subject Reliability Standard requirement(s), or whether the Possible Violation should be dismissed. (Section 5.2)

² Although this process step is not included in the currently effective version of Appendix 4C, the Regional Entities have followed the practice of issuing “initial notices of violation,” “preliminary notices of alleged violation,” and similarly-titled notices to Registered Entities, upon initially identifying a possible violation of a Reliability Standard requirement.

- Issuance of Notice of Alleged Violation to the Registered Entity, if the CEA determines that evidence exists to indicate the Registered Entity has violated the subject Reliability Standard requirement(s), and the CEA and the Registered Entity have not yet entered into settlement negotiations.³ The Notice of Alleged Violation must include the CEA's proposed penalty or sanction, if any, for the violation. Other than the revision described in the preceding sentence, the required contents of the Notice of Alleged Violation have not been changed. (Section 5.3)
- Dismissal. If the CEA dismisses a Possible Violation or Alleged Violation before it becomes a Confirmed Violation, the CEA will issue a Notice of Completion of Enforcement Action to the Registered Entity. (Section 5.10)
- Issuance of Notice of Confirmed Violation. If the Registered Entity (i) accepts (or fails to respond to) the Notice of Alleged Violation, or (ii) contests the Alleged Violation but fails to request a hearing within the ensuing 40-day period, the CEA issues a Notice of Confirmed Violation or other enforcement action to the Registered Entity and enters the Confirmed Violation into the NERC compliance reporting and tracking system. The CEA and the Registered Entity may agree in writing to extend the 40-day period. (Sections 5.3-5.4) The Notice of Confirmed Violation will include a detailed record of the enforcement action, including the facts and circumstances analyzed and the information on which the CEA relied in proposing the penalty or sanction. (Section 5.8)
- Written statement from the Registered Entity. The Registered Entity will also be notified of its right to submit a written explanatory statement to accompany the Notice of Confirmed Violation; the explanatory statement must include the name, title and signature of an officer, employee, attorney or other authorized representative of the Registered Entity. (Section 5.4)
- Settlement discussions. The Registered Entity may also request settlement discussions at any time in the process; however, the CEA may decline to engage in or continue settlement negotiations once the Confirmed Violation stage is reached. Any settlement agreement must ensure that the reliability of the Bulk Power System will not be compromised, and that no violation of a Reliability Standards will occur, as the result of the settlement. The Registered Entity may submit an explanatory statement to be included in the settlement agreement, which shall be subject to the consent of the CEA as part of the negotiated agreement. (Section 5.6)

³ The provision postponing issuance of a Notice of Alleged Violation if the CEA and Registered Entities have entered into settlement negotiations has been added because some Registered Entities have expressed a desire not to receive a Notice of Alleged Violation (which may result in reporting and disclosure requirements for the Registered Entity) if they are actively engaged in settlement negotiations with the CEA.

- Notice of Penalty. NERC will review the Notice of Confirmed Violation and use the information in it to prepare a Notice of Penalty. NERC will advise the Regional Entity of any additional detail or further development of factual findings NERC deems necessary before the Notice of Penalty can be issued. (Section 5.8)
- NERC will provide a draft Notice of Penalty to the Regional Entity, which in turn will advise the Registered Entity the Notice of Penalty is pending public filing. NERC will file the Notice of Penalty, along with any written statement provided by the Registered Entity, with FERC or another Applicable Governmental Authority no sooner than five business days after NERC approves the Notice of Confirmed Violation or settlement agreement. (Section 5.9; see also Section 8.0)
- Payment due invoice and receipt of payment of penalty. Following FERC approval of, or expiration of the period for action by FERC on, the Notice of Penalty, the CEA will issue a payment due notice and invoice to the Registered Entity for any penalty, specifying that payment is due 30 days from the date of the notice and invoice. Upon receipt of payment, the CEA will issue a notice confirming payment to the Registered Entity. (Section 5.10)
- Notice of Completion of Enforcement Action. After completion by the Registered Entity of all requirements in the Notice of Penalty and any settlement agreement, the CEA will issue a Notice of Completion of Enforcement Action to the Registered Entity, which will include a release of any data retention directives previously issued. Upon issuance of the Notice of Completion of Enforcement Action, the enforcement action is closed. (Section 5.10)

Note that none of the notices or other issuances or developments throughout this process are made public except for, and until, the filing and posting of the Notice of Penalty and/or any settlement agreement.

Section 6.0 – Mitigation of Violations of Reliability Standards

In Section 6.0, relating to Mitigation Plans, Section 6.1 has been revised to make it clear that a Registered Entity may submit a proposed Mitigation Plan at any time prior to the Confirmed Violation Stage, including with a Self-Report, or, without admitting it has committed a violation, in response to a Notice of Possible Violation or Notice of Alleged Violation.

Sections 6.2 and 6.3 have been revised to specify that the Mitigation Plan must include both the Registered Entity's plan to correct the violation and its plan to correct the cause of the violation, *i.e.*, it should encompass actions necessary to prevent a recurring violation of the Reliability Standard requirement underlying the violation.

In Section 6.5, a provision has been added to provide for provisional acceptance of a Mitigation Plan that is submitted prior to issuance of a Notice of Confirmed Violation or entry into a settlement. If the Regional Entity subsequently determines, upon completing its assessment of the Possible Violation, that the facts and circumstances are different than those on which the

Mitigation Plan was based, the Regional Entity notify the Registered Entity of the need to submit a revised Mitigation Plan that fully addresses the facts and circumstances of the violation. The Registered Entity will have 30 days, or a longer period if allowed by the Regional Entity, to submit the revised Mitigation Plan, which shall be subject to review and acceptance or rejection by the Regional Entity and by NERC. If the Regional Entity issues a Notice of Confirmed Violation or enters into a settlement agreement with the Registered Entity and does not identify the need for a revised Mitigation Plan, the Regional Entity will issue a notice to the Registered Entity stating that the “provisional” nature of the acceptance of the Mitigation Plan is terminated.

Section 8.0 – Reporting and Disclosure

Section 8.0 has been revised to provide that Regional Entities shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC by promptly entering the item into the NERC compliance reporting and tracking system.⁴ The current version of this provision states, in accordance with previous FERC directives, that Regional Entities “shall report to NERC . . . any allegations or evidence of violations of Reliability Standards regardless of significance, whether verified or still under investigation, that are received or obtained by the Regional Entity through any means” within specified time periods. Consistent with the revised enforcement process steps based on Possible Violations, Alleged Violations and Confirmed Violations, requiring Regional Entities to submit to reports to NERC at the “Possible Violation” stage will standardize this reporting process as well. The Possible Violation stage is the stage at which the Regional Entity has identified a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity. The reports are to include information regarding the nature of the Possible Violation, Alleged Violation or Confirmed Violation, the name of the Registered Entity involved, the status of any ongoing review and assessment, the name of a knowledgeable Regional Entity staff person to serve as a contact, and in the case of an Alleged Violation or Confirmed Violation, its potential impact on Bulk Power System Reliability. (At the Possible Violation stage, before the Regional Entity has conducted an assessment, it is not expected that the Regional Entity would have sufficient information to report the potential impact of the Possible Violation on Bulk Power System reliability.)

Appendix 5A – Organization Registration and Certification Manual

Appendix 5B – Statement of Compliance Registry Criteria (new)

The NERC *Statement of Compliance Registry Criteria* is being added as an Appendix to Section 500 of the NERC ROP. As a result, current Appendix 5, *Organization Registration and Certification Manual*, will be re-numbered as Appendix 5A, and the *Statement of Compliance Registry Criteria* will be Appendix 5B. No textual changes are being proposed to these documents from their current versions, other than the re-numbering of Appendix 5 to Appendix

⁴ The Regional Entity’s entry of the item into the new compliance reporting and tracking system being implemented by NERC and the Regional Entities will provide NERC, electronically, with the relevant Notice. Therefore, it is no longer necessary to specify that a Regional Entity must separately provide NERC with “a copy” of the Notice of Possible Violation, Alleged Violation or Confirmed Violation. Further, upon the Regional Entity entering the item into the compliance reporting and tracking system, NERC will have received the report.

5A and the designation of the *Statement of Compliance Registry Criteria* as Appendix 5B. Therefore, the texts of Appendices 5A and 5B are not included in this posting. Inclusion of the *Statement of Compliance Registry Criteria* as Appendix 5B will not change the process used to revise the *Statement of Compliance Registry Criteria*. NERC already uses a notice and comment period with NERC board and FERC approval to make such revisions.