

Western Electricity Coordinating Council

Compliance Monitoring and Enforcement Program

October 16, 2007

Compliance Monitoring and Enforcement Program

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COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.0 INTRODUCTION

This Compliance Monitoring and Enforcement Program (“Compliance Program”) is the program to be used by the North American Electric Reliability Corporation (“NERC”) and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States. This is accomplished through compliance monitoring and rigorous proactive Compliance Audits. Compliance monitoring and enforcement programs also will be implemented in Canada consistent with Canadian laws and agreements.

1.1 Definitions

- 1.1.1 Alleged Violation:** A potential violation that the Compliance Enforcement Authority has completed its accuracy and completeness review and has determined that evidence exists to indicate a Registered Entity has violated a Reliability Standard.
- 1.1.2 Annual Audit Plan:** A plan developed annually by the Compliance Enforcement Authority that includes the Reliability Standards and Registered Entities to be audited, the schedule of Compliance Audits, and Compliance Audit Participant requirements for the calendar year.
- 1.1.3 Applicable Governmental Authority:** A governmental body other than the U.S. Federal Energy Regulatory Commission (“FERC”) with authority to enforce Reliability Standards against a Registered Entity, which has entered into enforcement arrangements with the Regional Entity.
- 1.1.4 Complaint:** An allegation that a Registered Entity violated a Reliability Standard.
- 1.1.5 Compliance Audit:** A systematic, objective review and examination of records and activities to determine whether a Registered Entity meets the requirements of applicable Reliability Standards.
- 1.1.6 Compliance Audit Participants:** Registered Entities scheduled to be audited and the audit team members.
- 1.1.7 Compliance Enforcement Authority:** NERC or the Regional Entity in their respective roles of monitoring and enforcing compliance with the NERC Reliability Standards.
- 1.1.8 Compliance Violation Investigation:** A comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine if a violation of a Reliability Standard has occurred.

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- 1.1.9** Confirmed Violation: An Alleged Violation for which an entity has: 1) accepted the finding of the violation by a regional entity or NERC and will not seek an appeal, 2) completed the appeals process within NERC, or 3) allowed the time for submitting an appeal to NERC to expire.
- 1.1.10** Exception Reporting: Information provided to the Compliance Enforcement Authority by a Registered Entity indicating that violations of a Reliability Standard have occurred (e.g., a system operating limit has been exceeded). Some Reliability Standards require Exception Reporting.
- 1.1.11** Mitigation Plan: An action plan developed by a Registered Entity to (i) correct a violation of a Reliability Standard and (ii) prevent re-occurrence of the violation. A Mitigation Plan is usually required whenever a Registered Entity violates a Reliability Standard as determined by any means including Compliance Enforcement Authority decision, Settlement Agreement, or otherwise.
- 1.1.12** NERC Compliance Registry: A compilation of the Regional Compliance Registries from each Regional Entity plus the entities for which NERC serves as the Compliance Enforcement Authority.
- 1.1.13** NERC Compliance Monitoring and Enforcement Program Implementation Plan or NERC Implementation Plan: The annual NERC Compliance Monitoring and Enforcement Program Implementation Plan that specifies the Reliability Standards that are subject to reporting by Registered Entities to the Compliance Enforcement Authority in order to verify compliance and identifies the appropriate monitoring procedures and reporting schedules for each such Reliability Standard.
- 1.1.14** Periodic Data Submittals: Modeling, studies, analyses, documents, procedures, methodologies, operating data, process information or other information to demonstrate compliance with Reliability Standards and provided by Registered Entities to the Compliance Enforcement Authority on a time frame required by a Reliability Standard or an ad hoc basis.
- 1.1.15** Regional Compliance Registry: A list, pursuant to Section 500 of the NERC Rules of Procedure and the NERC Statement of Compliance Registry Criteria of the owners, operators or users of the bulk power system or the entities registered as their delegates for the purpose of compliance within a Regional Entity's geographic footprint that perform one or more functions in support of reliability of the bulk power system. The Registry is used to determine the Reliability Standards applicable to the Registered Entity.

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- 1.1.16** Regional Implementation Plan: An annual plan, submitted by November 1 of each year to NERC for approval that, in accordance with NERC Rule of Procedure Section 401.6 and the NERC Compliance Monitoring and Enforcement Program Implementation Plan, that identifies (1) all Reliability Standards identified by NERC to be actively monitored during each year, (2) other Reliability Standards proposed for active monitoring by the Regional Entity, (3) the methods to be used by the Regional Entity for reporting, monitoring, evaluation, and assessment of performance criteria with each Reliability Standard, and (4) the Regional Entity's Annual Audit Plan.
- 1.1.17** Registered Entity: An owner, operator, or user of the bulk power system or the entities registered as their delegates for the purpose of compliance that is included in the NERC and Regional Compliance Registry.
- 1.1.18** Remedial Action Directive: An action (other than a penalty or sanction) required by a Compliance Enforcement Authority that (1) is to bring a Registered Entity into compliance with a Reliability Standard or to avoid a Reliability Standard violation, and (2) is immediately necessary to protect the reliability of the bulk power system from an imminent threat.
- 1.1.19** Required Date: The date given a Registered Entity in a notice from the Compliance Enforcement Authority by which some action by the Registered Entity is required. Such date shall provide the Registered Entity a reasonable period of time in which to take the required action, given the circumstances and the action required.
- 1.1.20** Self-Certification: Attestation by a Registered Entity of compliance or non-compliance with Reliability Standards for which Self-Certification is required by the Compliance Enforcement Authority and that are included for monitoring in the Regional Implementation Plan.
- 1.1.21** Self-Reporting: A report by a Registered Entity of a violation of a Reliability Standard, based on its own assessment in order to provide prompt reports of any Reliability Standard violation and the actions that were taken or will be taken to resolve the violation.
- 1.1.22** Spot Checking: A process in which the Compliance Enforcement Authority requests a Registered Entity to provide information to support the Registered Entity's Self-Certification, Self Reporting, or periodic data submittal and to assess whether the Registered Entity complies with Reliability Standards. Spot Checking may also be random or initiated in response to events, as described in the Reliability Standards, or by operating problems, or system events. Spot Checking may require an on-site review to complete.

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2.0 IDENTIFICATION OF ORGANIZATIONS RESPONSIBLE FOR COMPLYING WITH RELIABILITY STANDARDS

The Compliance Enforcement Authority shall register the organizations responsible for complying with Reliability Standards, in accordance with Section 500 of the NERC Rules of Procedure. The Compliance Enforcement Authority shall identify the owners, operators, and users of the bulk power system that meet the definition of Registered Entities within the Compliance Enforcement Authority's area of responsibility. Each Registered Entity shall inform the Compliance Enforcement Authority promptly of changes to its Registration information. The Compliance Enforcement Authority shall inform each Registered Entity at the time of registration of the Reliability Standards that are applicable to the Registered Entity. The Compliance Enforcement Authority shall maintain on its website a current listing of Reliability Standards that are applicable to all Registered Entities.

The Compliance Enforcement Authority will designate a contact person(s) and require each Registered Entity to designate a contact person(s) responsible for sending and receiving all necessary information and communications concerning compliance matters. The Compliance Enforcement Authority will designate where Registered Entities are to send information, data, Mitigation Plans, or any other compliance-related correspondence.

Each Regional Entity shall develop, maintain, and provide to NERC a Regional Compliance Registry with updates as changes occur. NERC shall maintain the NERC Compliance Registry on its web site. NERC will provide FERC and Applicable Governmental Authorities monthly updates to the NERC Compliance Registry.

3.0 COMPLIANCE MONITORING AND ENFORCEMENT PROCESSES

The Compliance Enforcement Authority will monitor, assess, and enforce compliance with Reliability Standards using eight (8) monitoring processes to collect information in order to make assessments of compliance: (1) Compliance Audits, (2) Self-Certifications, (3) Spot Checking, (4) Compliance Violation Investigations, (5) Self-Reporting, (6) Periodic Data Submittals, (7) Exception Reporting, and (8) Complaints. These processes are described in sections 3.1 through 3.8 below.

Enforcement actions taken by the Compliance Enforcement Authority through the Compliance Program may include the imposition of remedial actions, sanctions, and penalties, where applicable, which shall be based on the schedule of penalties and sanctions approved for implementation by FERC and other Applicable Governmental Authorities. The imposition and acceptance of sanctions and penalties shall not be considered an acceptable alternative to any Registered Entity's continuing obligation to comply with the Reliability Standards. Registered Entities found in violation of a Reliability Standard will be required to mitigate the violation regardless of any enforcement actions taken.

Prior to reporting an Alleged Violations of Reliability Standards to NERC under Section 8.0, the Compliance Enforcement Authority may review the report of violation submitted to it by the Registered Entity, audit team, or others for accuracy and completeness. This may include a

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review of the applicability of the Reliability Standard(s) upon the Registered Entity, a review of the particular Reliability Standard or requirement reported to have been violated, and a review of the functions performed by the Registered Entity and the function reported to have violated the Reliability Standard or requirement. Any corrections to the report of violation are to be made by the Compliance Enforcement Authority, and the Alleged Violation is to be reported to NERC if the Compliance Enforcement Authority has confirmed that the report contains evidence indicating the Registered Entity may have violated a Reliability Standard.

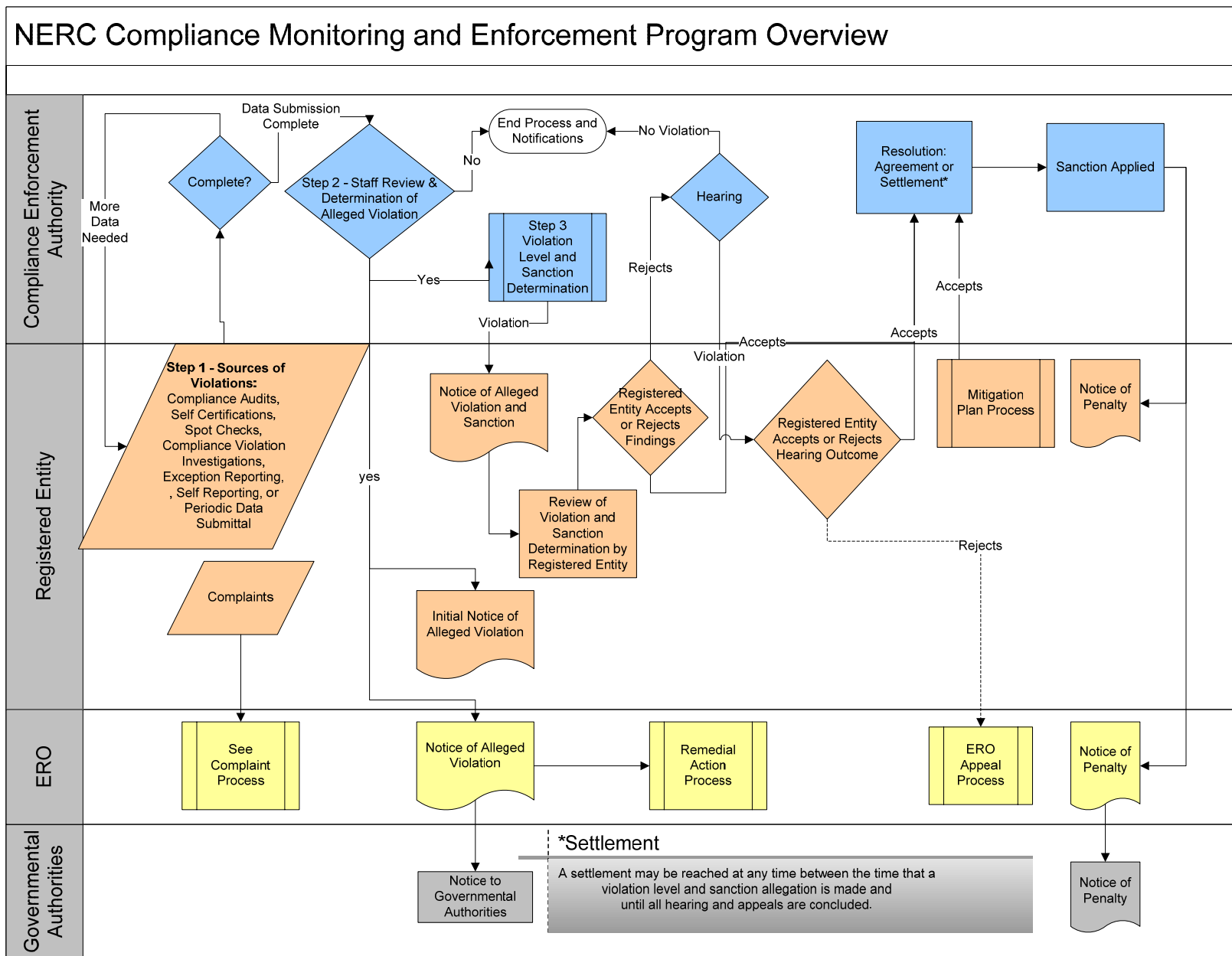
The Compliance Program requires timely data from Registered Entities to effectively monitor compliance with Reliability Standards. If data, information or other reports to determine compliance requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may execute the steps described in **Attachment 1, Process for Non-submittal of Requested Data**.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information is unreasonable, the party may request a written determination from the NERC compliance program officer.

Any report or other submission of information by a Registered Entity required by the Compliance Program shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity. Electronic signatures are permitted in accordance with processes established by NERC and the Regional Entity. NERC or the Compliance Enforcement Authority may require the signer to provide a statement of the basis of his or her authority to sign on behalf of the Registered Entity.

Figure 3.0 NERC Compliance Program Process depicts the overall process steps for the Compliance Program and each of the subsequent process diagrams are either inputs to the overall process or represent an expansion of a single process (i.e., hearing process) shown on this diagram.

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3.1 Compliance Audits

All Registered Entities are subject to audit for compliance with all Reliability Standards applicable to the functions for which the Registered Entity is registered. Compliance Audits are conducted on the Registered Entity's site to the extent required by NERC Rule of Procedure 403.11.2. All Compliance Audits shall be conducted in accordance with audit guides established for the Reliability Standards included in the Compliance Audit, consistent with accepted auditing guidelines as approved by NERC. The audit guides will be posted on NERC's website.

3.1.1 Compliance Audit Process Steps

The process steps for a Compliance Audit are as follows and as shown on **Figure 3.1**:¹

- The Compliance Enforcement Authority distributes the Annual Audit Plan (developed in coordination with NERC) to the Compliance Audit Participants and NERC. The Compliance Enforcement Authority provides additional information to the Compliance Audit Participants, including audit materials, coordinating agendas and changes to the audit schedule as required. Prior to the Compliance Audit, the Compliance Enforcement Authority informs the Registered Entity of the Reliability Standards to be evaluated. NERC or the Regional Entity provides the audit schedules to FERC or the Applicable Governmental Authority based upon the agreements in place with the Applicable Governmental Authority.
- At least two (2) months prior to commencement of a regularly scheduled Compliance Audit, the Compliance Enforcement Authority notifies the Registered Entity of the audit, identifies the audit team members and their recent employment history, and requests data, including a completed NERC pre-audit questionnaire. If the audit team members change from the time of the original notification, the Compliance Enforcement Authority will promptly notify the Registered Entity of the change and will allow time for the Registered Entity to object to the member (see Section 3.1.5).
- The Registered Entity provides to the Compliance Enforcement Authority the required information in the format specified in the request.
- The audit team reviews the submitted information for conformance with the requirements of the Reliability Standards prior to performing the audit. The audit team follows NERC audit guidelines in the implementation of the audit. This shall include conducting an exit briefing with the Registered Entity, providing for a review of the audit report with the Registered Entity before it is finalized, and issuing an audit report, including an assessment of compliance with the Reliability Standards to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the report developed by the audit team and completes an assessment of any Alleged Violations with the Reliability Standards identified in the report.

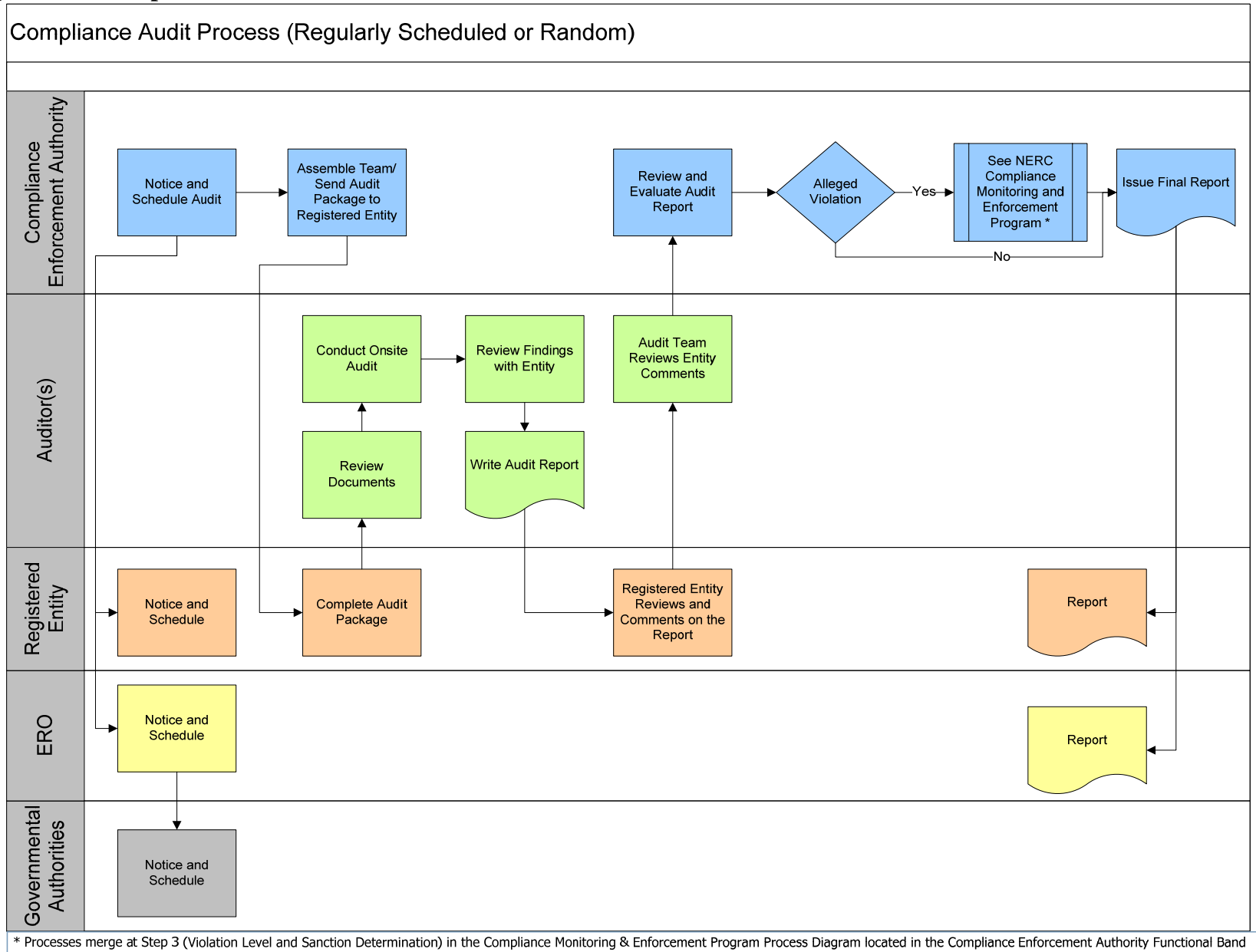
¹This process normally completes within sixty (60) days of the completion of the on-site Compliance Audit work at the Registered Entity's site.

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- The Compliance Enforcement Authority provides the final audit report to the Registered Entity and to NERC.
- If the Compliance Enforcement Authority determines that an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in **Figure 3.0**.
- Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.

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Figure 3.1 – Compliance Audit Process



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3.1.2 Compliance Enforcement Authority Annual Audit Plan and Schedule

The Compliance Enforcement Authority shall develop an Annual Audit Plan. The Annual Audit Plan of Regional Entities will be included in the Regional Implementation Plans submitted to NERC for review and approval (see Section 4.2). NERC or the Regional Entity provides the Annual Audit Plans to FERC or the Applicable Governmental Authority consistent with the agreements in place with the Applicable Governmental Authority.

Prior to January 1 of the year covered by the Annual Audit Plan, the Compliance Enforcement Authority shall notify Registered Entities subject to Compliance Audits during the upcoming year, of the audit schedules, methods, and data requirements for the audit. The Compliance Enforcement Authority will give due consideration to any schedule changes requested by Registered Entities to avoid unnecessary burdens.

Revisions and additions to a Regional Entity Annual Audit Plan shall be approved by NERC and the Registered Entity shall be notified in a timely manner (normally 60 days in advance) of changes or revisions to scheduled audit dates.

3.1.3 Frequency of Compliance Audits

The Compliance Enforcement Authority will perform comprehensive Compliance Audits as required by the NERC Rules of Procedure based on criteria established by NERC. Additionally, an unscheduled Compliance Audit of any Registered Entity (i) may be initiated at any time by the Compliance Enforcement Authority if reasonably determined to be necessary to ensure the Registered Entities' compliance with Reliability Standards, and (ii) shall be initiated by the Compliance Enforcement Authority or by NERC if directed by FERC. The Compliance Enforcement Authority shall notify NERC and FERC that an unscheduled Compliance Audit is being initiated. The Registered Entity shall receive at least ten (10) business days advance notice that an unscheduled Compliance Audit is being initiated, which notice shall include identification of the members of the Compliance Audit team. The Registered Entity shall make any objections to the composition of the Compliance Audit team, which shall be based on failure to meet the criteria specified in Section 3.1.5, at least five (5) business days prior to the start of start of on-site audit work for the unscheduled Compliance Audit.

3.1.4 Scope of Compliance Audits

A Compliance Audit will include all Reliability Standards applicable to the Registered Entity monitored in the NERC Implementation Plans in the current and three previous years, and may include other Reliability Standards applicable to the Registered Entity. If a Reliability Standard does not require retention of data for the full period of the Compliance Audit, the Compliance Audit will be applicable to the data retention period specified in the Reliability Standard.

3.1.5 Conduct of Compliance Audits

The audit team shall be comprised of staff personnel from the Compliance Enforcement Authority and may include contractors and industry volunteers as determined by the Compliance Enforcement Authority to be appropriate to comprise a sufficient audit team. The audit team leader shall be a staff member from the Compliance Enforcement Authority and is responsible

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for the conduct of the Compliance Audit and preparation of the audit report. At their discretion, NERC Compliance Staff may participate on any Regional Entity Compliance Audit team either as an observer or as an audit team member as determined by the Regional Entity. Additionally, FERC and other regulatory bodies with regulatory authority for the Registered Entity may participate on the audit team for any Compliance Audit of a Registered Entity.

Each audit team member must:

- Be free of conflicts of interests. For example, employees or contractors of the Registered Entity being audited shall not be allowed to participate as auditors in the Compliance Audit of the Registered Entity.
- Comply with the NERC Antitrust Compliance Guidelines and shall have either signed appropriate confidentiality agreements or acknowledgments that the confidentiality agreement signed by the Compliance Enforcement Authority is applicable.
- Audit team members must successfully complete all NERC or NERC-approved Regional Entity auditor training applicable to the Compliance Audit. As a transitional matter, for Compliance Audits conducted prior to January 1, 2008, at least a majority of audit team members must have successfully completed such training.

Prior to the Compliance Audit, copies of executed confidentiality agreements or acknowledgements will be provided to the Registered Entity.

A Registered Entity subject to a Compliance Audit may object to any member of the audit team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance of his or her duties. Such objections must be provided in writing to the Compliance Enforcement Authority no later than fifteen (15) days prior to the start of on-site audit work. This fifteen (15) day requirement shall not apply (i) where an audit team member has been appointed less than fifteen days prior to the start of on-site audit work, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority within five (5) business days after receiving notice of the appointment of the Compliance Audit team member; and (ii) in the case of an unscheduled Compliance Audit pursuant to Section 3.1.3, in which case the Registered Entity must provide any objections to the Compliance Enforcement Authority at least five (5) business days prior to the start of on-site audit work for the unscheduled Compliance Audit. The Compliance Enforcement Authority will make a final determination on whether the member will participate in the Compliance Audit of the Registered Entity. Nothing in this paragraph shall be read to limit the participation of NERC or Commission staff in the Compliance Audit.

3.1.6 Compliance Audit Reports

The audit team shall develop a draft audit report that shall include a description of the objective, scope, and methodology of the Compliance Audit; identify any Alleged Violations of Reliability Standards; identify any mitigation or Remedial Action Directives, which have been completed or pending in the year of the Compliance Audit; identify the nature of any confidential information redacted. A separate document may be prepared that contains recommendations of the audit team. Any recommendations contained in that document will be considered non-binding. The draft report will be provided to the Registered Entity for comment.

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The audit team will consider corrections based on comments of the Registered Entity and provide the final audit report to the Compliance Enforcement Authority who will review the report and assess compliance with the Reliability Standards and provide the Registered Entity with a copy of the final report. Regional Entities will provide the final report to NERC, which will in turn provide the report to FERC or the Applicable Governmental Authority. The Registered Entity shall receive the final audit report at least five (5) business days prior to the release of the report to the public. Work papers and other documentation associated with the audit shall be maintained by the Compliance Enforcement Authority in accordance with NERC requirements.

In the event the audit report identifies Alleged Violations, the final audit report, or pertinent part thereof identifying the Alleged Violation(s) and any proposed penalty or sanction(s), shall not be released to the public by NERC or the Compliance Enforcement Authority until (i) NERC submits a notice of penalty to FERC, or (ii) such Alleged Violation(s) have been admitted by the Registered Entity or resolved by a settlement with the Compliance Enforcement Authority pursuant to the provisions of Section 5.0.

Information deemed by a Compliance Enforcement Authority or the Registered Entity as critical energy infrastructure information or confidential information (as defined in Section 1501 of the NERC Rules of Procedure) shall be redacted from any public reports.

3.2 Self-Certification

The Compliance Enforcement Authority may require Registered Entities to self-certify their compliance with Reliability Standards.

If a Self-Certification accurately identifies a violation of a Reliability Standard, an identification of the same violation in a subsequent Compliance Audit or Spot Check, will not subject the Registered Entity to an escalated penalty as a result of the Compliance Audit process unless the severity of the violation is found to be greater than reported by the Registered Entity in the Self-Certification.

3.2.1 Self-Certification Process Steps

The process steps for the Self-Certification process are as follows and as shown in **Figure 3.2.1**:²

- The Compliance Enforcement Authority posts and updates the reporting schedule and informs Registered Entities. The Compliance Enforcement Authority ensures that the appropriate Reliability Standards, compliance procedures, and required submittal forms for the Reliability Standards being evaluated are maintained and available electronically.
- The Compliance Enforcement Authority requests the Registered Entity to make a Self-Certification within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify the advance notice period, this request will be issued in a timely manner (normally thirty (30) days advance notice).

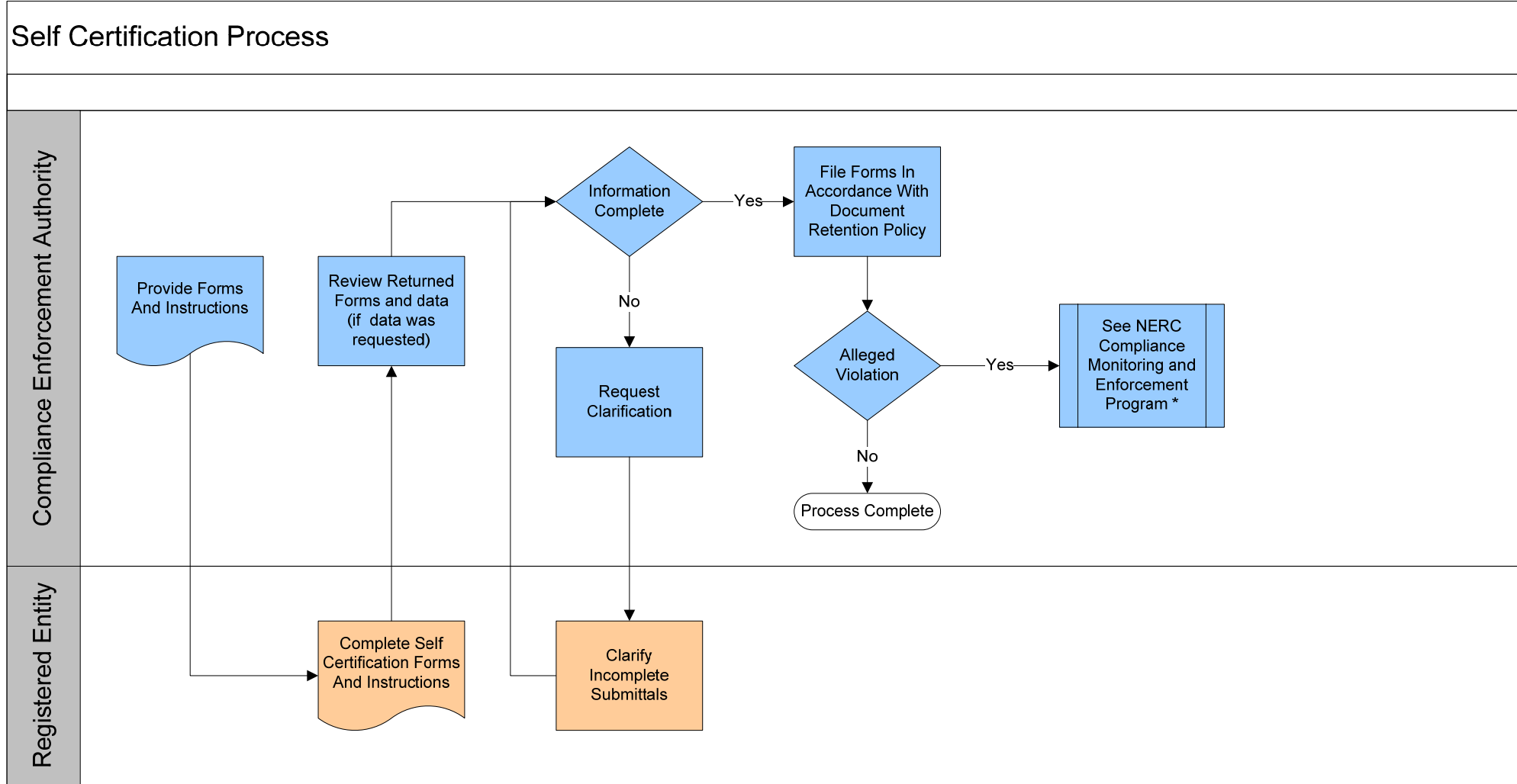
²If no non-compliances are found, this process normally completes within sixty (60) days of the Compliance Enforcement Authority's receipt of data.

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- The Registered Entity provides the required information to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards and may request additional data and/or information if necessary.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standard (and with the Registered Entity's Mitigation Plan, if applicable). If the Compliance Enforcement Authority determines that an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in **Figure 3.0**
- Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.

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Figure 3.2.1 – Self Certification Process



* Processes merge at Step 3 (Violation Level and Sanction Determination) in the Compliance Monitoring & Enforcement Program Process Diagram located in the Compliance Enforcement Authority Functional Ba

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3.3 Spot Checking

Spot Checking will be conducted by the Compliance Enforcement Authority. Spot Checking may be initiated by the Compliance Enforcement Authority at any time to verify or confirm Self-Certifications, Self Reporting, and Periodic Data Submittals. Spot Checking may also be random or may be initiated in response to events, as described in the Reliability Standards, or by operating problems, or system events. The Compliance Enforcement Authority then reviews the information submitted to verify the Registered Entity's compliance with the Reliability Standard. A Compliance Audit may be initiated by the Compliance Enforcement Authority as a result of a Spot Check as necessary.

3.3.1 Spot Checking Process Steps

The process steps for Spot Checking are as follows and as shown in **Figure 3.3.1**:³

- The Compliance Enforcement Authority notifies the Registered Entity that Spot Checking will be performed and the reason for the spot check within the advance notice period specified by the Reliability Standard. If the Reliability Standard does not specify the advance notice period, any information submittal request made by the Compliance Enforcement Authority will allow at least twenty (20) days for the information to be submitted or available for review.
- The spot check may require submission of data, documentation, or possibly an on-site review.
- The Registered Entity provides required information to the Compliance Enforcement Authority in the format specified in the request.
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards and may request the additional data and/or information if necessary for a complete assessment of compliance.
- The Compliance Enforcement Authority reviews its draft assessment of the Registered Entity's compliance with the Registered Entity and provides an opportunity for the Registered Entity to comment on the draft assessment.
- The Compliance Enforcement Authority completes and documents the assessment of the Registered Entity for compliance with the Reliability Standard and provides a report to the Registered Entity indicating the results of the spot check.
- If the Compliance Enforcement Authority determines that an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in **Figure 3.0**

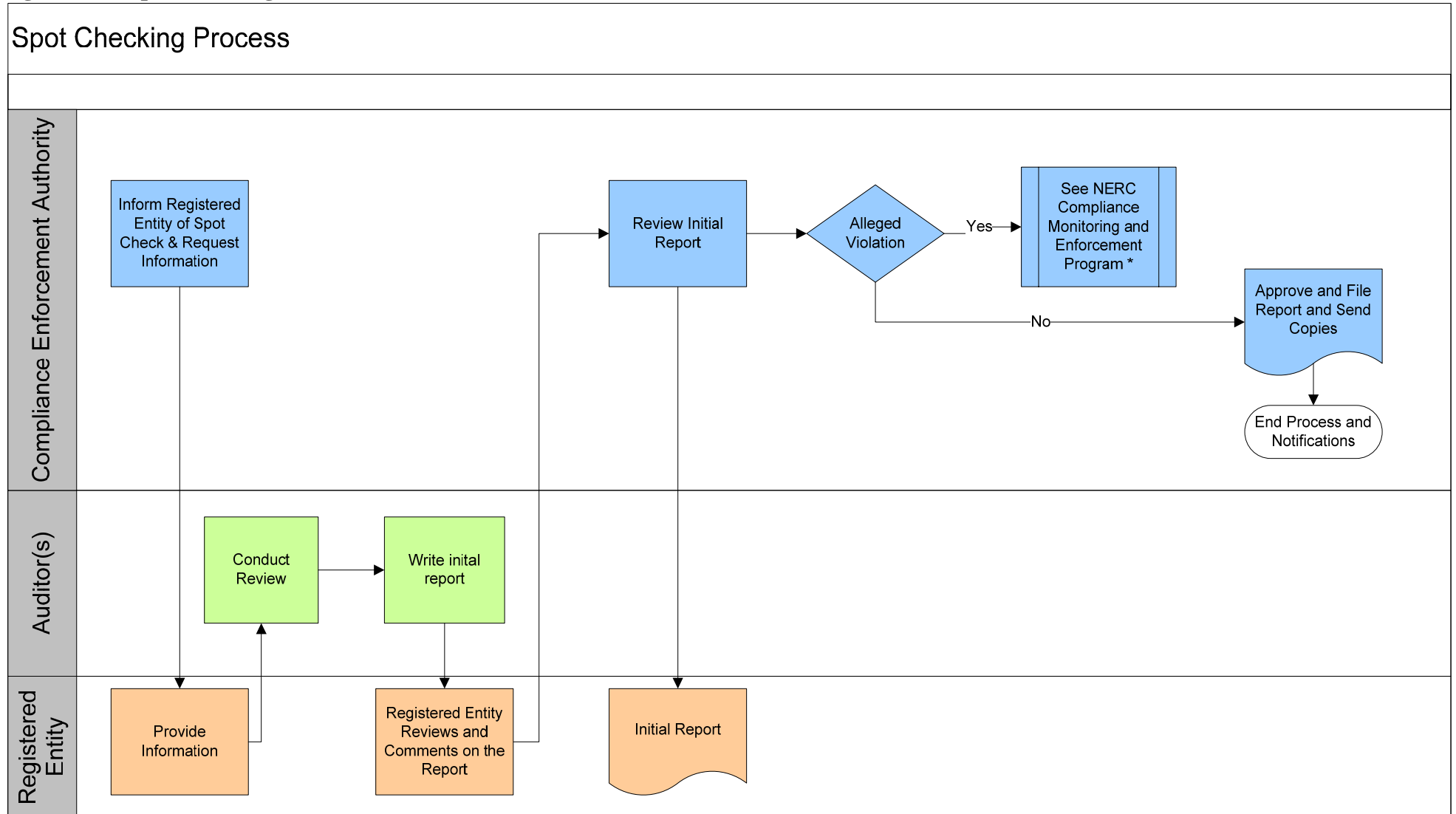
³If no alleged violations are found, this process normally completes within ninety (90) days of the Compliance Enforcement Authority's receipt of data.

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- Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.

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Figure 3.3.1 Spot Checking Process



* Processes merge at Step 3 (Violation Level and Sanction Determination) in the Compliance Monitoring & Enforcement Program Process Diagram located in the Compliance Enforcement Authority Functional Band

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3.4 Compliance Violation Investigations

A Compliance Violation Investigation may be initiated at any time by the Compliance Enforcement Authority NERC, FERC or an Applicable Governmental Authority in response to a system disturbance, Complaint, or possible violation of a Reliability Standard identified by any other means. Compliance Violation Investigations will generally be led by the Regional Entity's staff. NERC reserves the right to assume the leadership of a Compliance Violation Investigation.⁴ The Regional Entity shall not be entitled to appeal NERC's decisions to lead a Compliance Violation Investigation. Compliance Violation Investigations are confidential, unless FERC directs that a Compliance Violation Investigation should be public or that certain information obtained in the Compliance Violation Investigation should be publicly disclosed. Confirmed Violations resulting from a Compliance Violation Investigation will be made public.

3.4.1 Compliance Violation Investigation Process Steps

The process steps for a Compliance Violation Investigation are as follows and as shown in **Figure 3.4.1**:⁵

- The Compliance Enforcement Authority is notified or becomes aware of circumstances indicating a possible violation of a Reliability Standard and determines whether a Compliance Violation Investigation is warranted. Within two (2) business days of the decision to initiate a Compliance Violation Investigation, the Compliance Enforcement Authority: (i) notifies the Registered Entity of the initiation and initial scope of the Compliance Violation Investigation, the requirements to preserve all records and information relevant to the Compliance Violation Investigation and, where appropriate, the reasons for the Compliance Violation Investigation, and (ii) notifies NERC of the initiation of and the reasons for the Compliance Violation Investigation. While the Compliance Enforcement Authority may, at its discretion, notify the Registered Entity of the reasons for its investigation, the investigation, as it unfolds, need not be limited to this scope.
- NERC assigns a NERC Staff member to the Compliance Violation Investigation and to serve as a single point of contact for communications with NERC. NERC notifies FERC or other Applicable Governmental Authorities of a Compliance Violation Investigation within two (2) business days after NERC is notified of the decision to initiate a Compliance Violation Investigation.
- The Compliance Enforcement Authority requests data or documentation and provides a list of individuals on the investigation team and their recent employment history. The

⁴ Examples of situations in which NERC may decide to lead a Compliance Violation Investigation include: (i) to assure consistency in investigative processes, (ii) to coordinate investigations into matters that may cross Regional Entity boundaries, (iii) where the possible violation is related to the Regional Entity or one of its affiliates, divisions, committees or subordinate structures, or (iv) where the Regional Entity determines it cannot conduct the Compliance Violation Investigation.

⁵If no alleged violation(s) are found, this process normally completes within sixty (60) days following the decision to initiate a Compliance Violation Investigation.

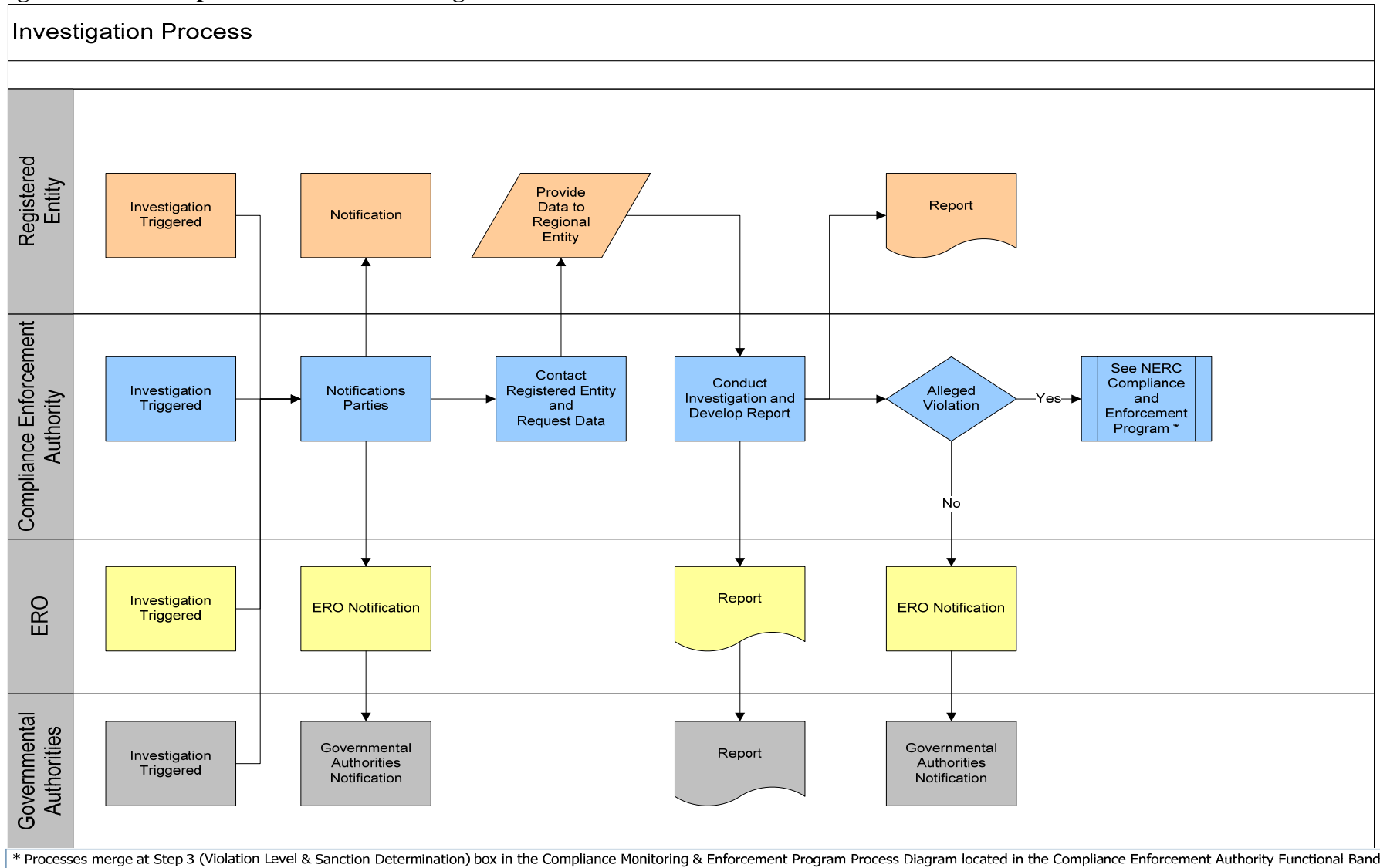
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Registered Entity may object to any individual on the investigation team in accordance with Section 3.1.5; however, the Registered Entity may not object to participation by NERC, by FERC staff or by staff of an Applicable Governmental Authority on the investigation team. If the Reliability Standard does not specify the advance notice period, a request is normally issued with no less than twenty (20) days advance notice.

- Within ten (10) business days of receiving the notification of a Compliance Violation Investigation, a Registered Entity subject to an investigation may object to any member of the investigation team on grounds of a conflict of interest or the existence of other circumstances that could interfere with the team member's impartial performance of his or her duties. Such objections must be provided in writing to the Compliance Enforcement Authority within such ten (10) business day period. The Compliance Enforcement Authority will make a final determination as to whether the individual will participate in the investigation of the Registered Entity.
- If necessary, the Compliance Violation Investigation may include an on-site visit with interviews of the appropriate personnel and review of data.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- The Compliance Enforcement Authority reviews information to determine compliance with the Reliability Standards. The Compliance Enforcement Authority may request additional data and/or information if necessary for a complete assessment or to demonstrate compliance.
- The Compliance Enforcement Authority may require the Registered Entity (i) to provide a verification under oath by an officer, employee, attorney or other authorized representative of the Registered Entity attesting to the accuracy, completeness and truth of the Registered Entity's responses to the Compliance Enforcement Authority's requests for documents and information; and (ii) to produce one or more officers, employees or other authorized representatives of the Registered Entity who are familiar with the subject matter of the Compliance Violation Investigation to provide testimony under oath concerning the matters under investigation.
- The Compliance Enforcement Authority completes the assessment of compliance with the Reliability Standard and/or approval of the applicable Mitigation Plan, writes and distributes the report, and notifies the Registered Entity.
- If the Compliance Enforcement Authority determines that an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in **Figure 3.0**
- Regional Entities will notify NERC of any Alleged Violations as required by Section 8.0.
- If the Compliance Enforcement Authority determines that no violation occurred, it shall send the Registered Entity and NERC a notice that the investigation has been completed. NERC will in turn notify FERC and any Applicable Governmental Authority.

Compliance Monitoring and Enforcement Program

Figure 3.4.1 – Compliance Violation Investigation Process



Compliance Monitoring and Enforcement Program

3.5 Self-Reporting

Self-Reporting is encouraged at the time a Registered Entity becomes aware (i) of a violation of a Reliability Standard or (ii) a change in the violation severity level of a previously reported violation. Self-Reporting of a violation of a Reliability Standard is encouraged regardless of whether the Reliability Standard requires reporting on a pre-defined schedule in the Compliance Program and the violation is determined outside the pre-defined reporting schedule.

3.5.1 Self-Reporting Process Steps

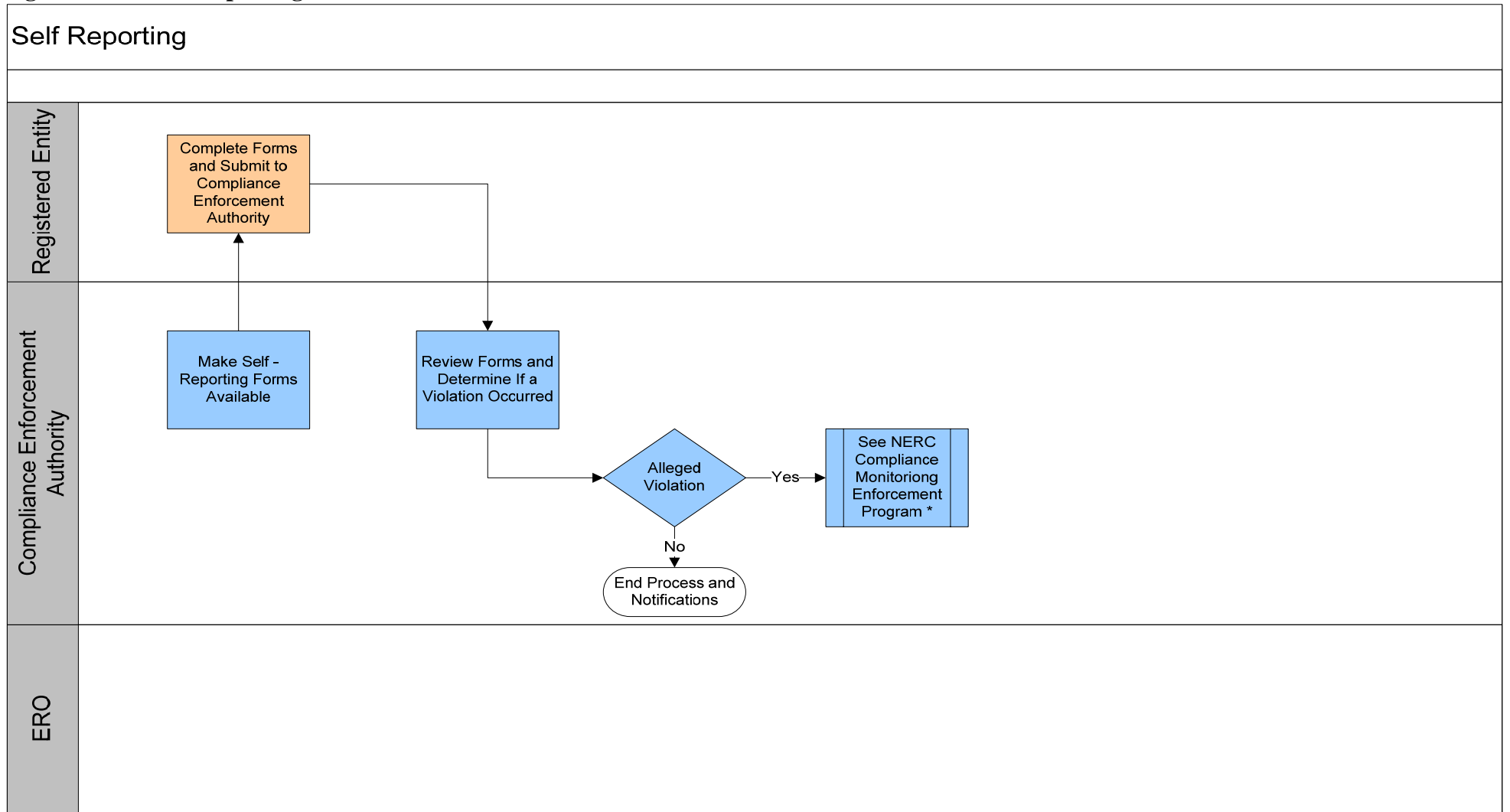
The process steps for Self-Reporting are as follows and as shown in **Figure 3.5.1**:⁶

- The Compliance Enforcement Authority posts the Self-Reporting submittal forms and ensures they are maintained and available on its Web site.
- The Registered Entity provides the Self-Reporting information to the Compliance Enforcement Authority.
- The Compliance Enforcement Authority reviews the information to determine compliance with the Reliability Standards and may request the Registered Entity to provide clarification or additional data and/or information.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standards and any Mitigation Plan, if applicable, and notifies the Registered Entity.
- If the Compliance Enforcement Authority determines an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3, Notice of Alleged Violation, of the Compliance Program Process shown in **Figure 3.0**.
- Regional Entities notify NERC of any Alleged Violations as required by Section 8.0.

⁶This process normally completes within sixty (60) days following the Compliance Enforcement Authority's receipt of data.

Compliance Monitoring and Enforcement Program

Figure 3.5.1 – Self Reporting Process



* Processes merge at Step 3 (Violation Level and Sanction Determination) in the Compliance Monitoring & Enforcement Program Process Diagram located in the Compliance Enforcement Authority Functional Band

Compliance Monitoring and Enforcement Program

3.6 Periodic Data Submittals

The Compliance Enforcement Authority requires Periodic Data Submittals in accordance with the schedule stated in the applicable Reliability Standard, established by the Compliance Enforcement Authority, or on an as-needed basis. Requests for data submittals will be issued by the Compliance Enforcement Authority to Registered Entities with at least the minimum advance notice period specified by the applicable Reliability Standard. If the Reliability Standard does not specify an advance notice period, the request will normally be issued with no less than twenty (20) days advance notice.

3.6.1 Periodic Data Submittals Process Steps

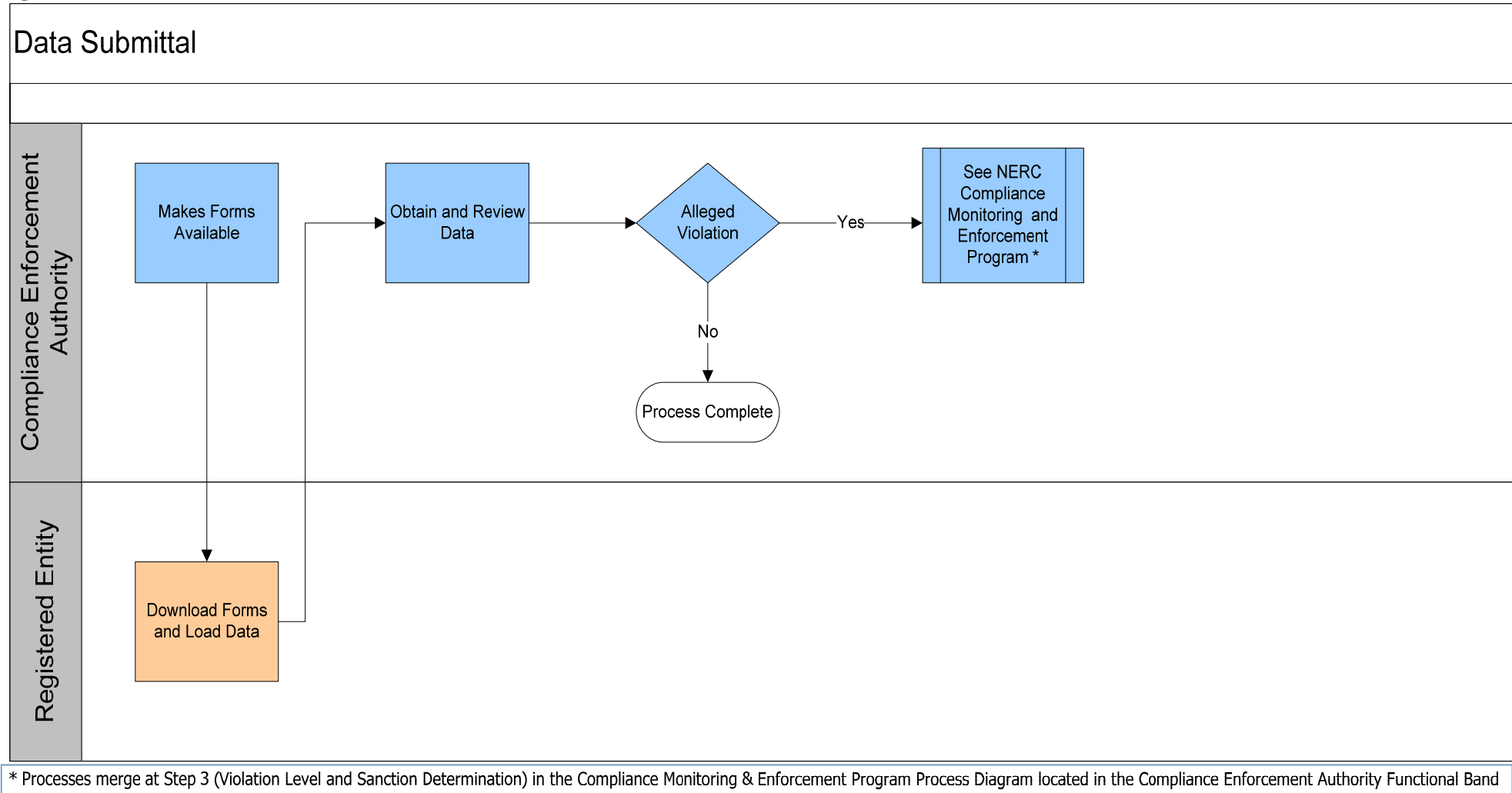
The process steps for Periodic Data Submittal are as follows and as shown in **Figure 3.6.1**:⁷

- The Compliance Enforcement Authority posts the current data reporting schedule on its web site and keeps Registered Entities informed of changes and/or updates. The Compliance Enforcement Authority ensures that the appropriate Reliability Standard compliance procedures and the required submittal forms for the Reliability Standards being evaluated are maintained and available via its Web site.
- The Compliance Enforcement Authority makes a request for a Periodic Data Submittal.
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.
- The Compliance Enforcement Authority reviews the data submittal to determine compliance with the Reliability Standards and may request additional data and/or information for a complete assessment or to demonstrate compliance.
- The Compliance Enforcement Authority reviews its draft assessment of the Registered Entity's compliance with the Reliability Standard and provides an opportunity for the Registered Entity to comment on the assessment before it is finalized.
- The Compliance Enforcement Authority completes the assessment of the Registered Entity for compliance with the Reliability Standard and notifies the Registered Entity.
- If the Compliance Enforcement Authority determines that an Alleged Violation has occurred, it shall send the Registered Entity a notice containing the information set forth in Section 5.1 and the process moves to step 3 (Notice of Alleged Violation) of the Compliance Program Process shown in **Figure 3.0**
- Regional Entities notify NERC of any Alleged Violations as required by Section 8.0.

⁷If no violation(s) are found, this process generally completes within ten (10) business days of the Compliance Enforcement Authority's receipt of data.

Compliance Monitoring and Enforcement Program

Figure 3.6.1 – Data Submittal Process



Compliance Monitoring and Enforcement Program

3.7 Exception Reporting

Some Reliability Standards require reporting of exceptions to compliance with the Reliability Standard as a form of compliance monitoring. The Compliance Enforcement Authority shall require Registered Entities to provide reports identifying any exceptions to the extent required by any Reliability Standard.

The Compliance Enforcement Authority shall also require Registered Entities to confirm the number of exceptions that have occurred in a given time period identified by NERC, even if the number of exceptions is zero.

3.8 Complaints

Either NERC or Regional Entities may receive Complaints alleging violations of a Reliability Standard. A Regional Entity will conduct a review of each Complaint it receives to determine if the Complaint provides sufficient basis for a Compliance Violation Investigation, except that NERC will review any Complaint (1) that is related to a Regional Entity or its affiliates, divisions, committees or subordinate structures, (2) where the Regional Entity determines it cannot conduct the review, or (3) if the complainant wishes to remain anonymous or specifically requests NERC to conduct the review of the Complaint.

If the Complaint is submitted to NERC, NERC will forward the information to the Regional Entity, as appropriate.

All anonymous Complaints will be reviewed and any resulting Compliance Violation Investigations conducted by NERC will be conducted in accordance with Section 3.8.2 to prevent disclosure of the identity of the complainant.

The Compliance Enforcement Authority conducting the review will determine if the Complaint may be closed as a result of the initial review and assessment of the Complaint to determine if it provides sufficient basis for a Compliance Violation Investigation. The Regional Entity will report the results of its review of the Complaint to NERC. If, as a result of the initial review of the Complaint, the Compliance Enforcement Authority determines that a Compliance Violation Investigation is warranted, a Compliance Violation Investigation will be conducted in accordance with Section 3.4.

3.8.1 Complaint Process Steps

The detailed process steps for the Complaint process are as follows and as shown in **Figure 3.8.1**.⁸

- The complainant notifies NERC or a Regional Entity using the NERC compliance hotline, submitting a NERC Complaint reporting form, or by other means. A link to the Complaint reporting form will be posted on the NERC and Regional Entity Web sites.

⁸If no violations are found, this process normally completes within sixty (60) days following receipt of the Complaint.

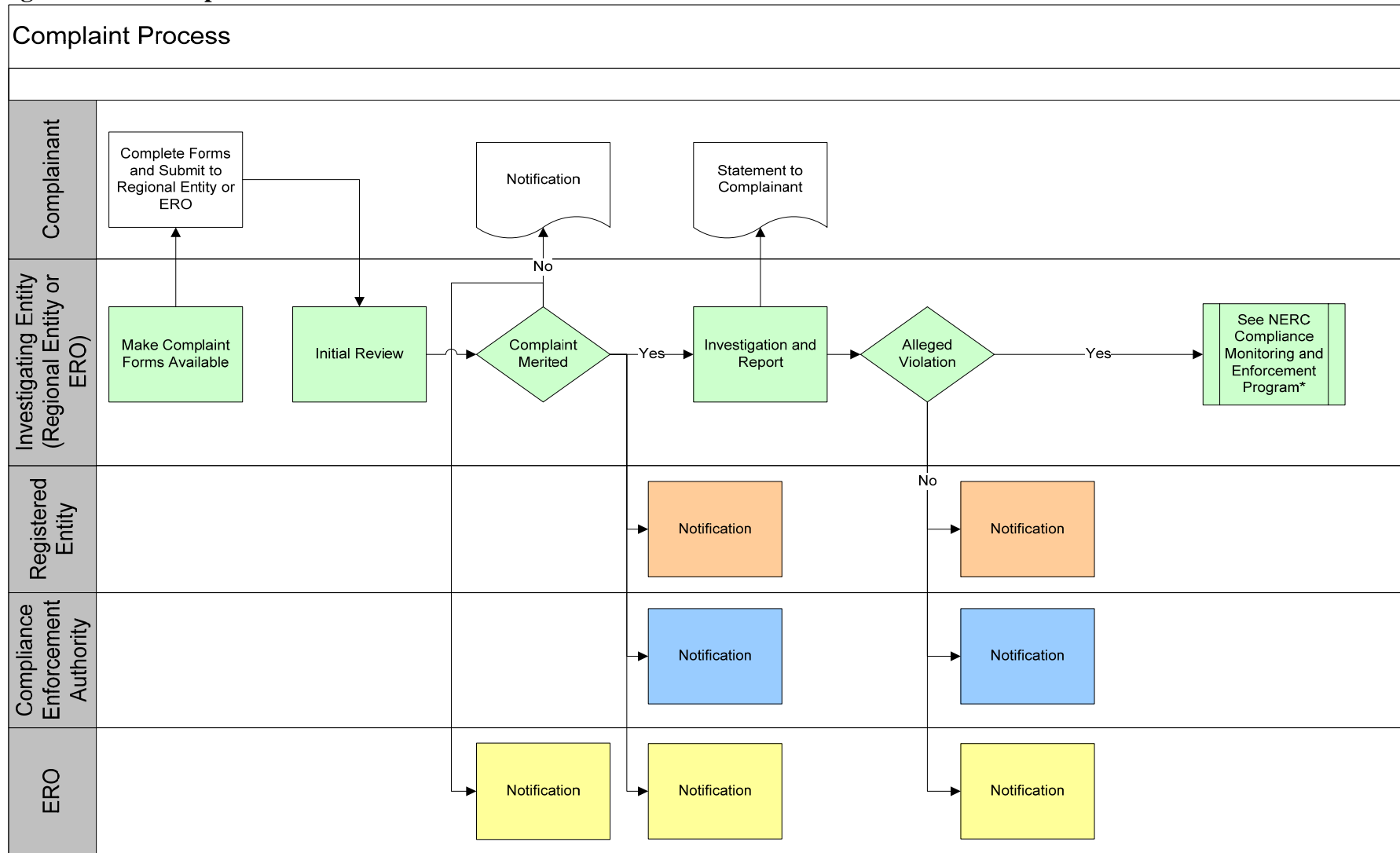
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The Complaint should include sufficient information to enable NERC or the Regional Entity to make an assessment of whether the initiation of a Compliance Violation Investigation is warranted. NERC or the Regional Entity may not act on a Complaint if the Complaint is incomplete and does not include sufficient information.

- If the Compliance Enforcement Authority determines that a Compliance Violation Investigation is warranted, it initiates the Compliance Violation Investigation in accordance with Section 3.4; otherwise it takes no further action. The Compliance Enforcement Authority notifies the complainant, the Registered Entity, and NERC of the Compliance Violation Investigation. If the Compliance Enforcement Authority determines that a Compliance Violation Investigation is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.
- The Compliance Enforcement Authority fully documents the Complaint and the Complaint review, whether a Compliance Violation Investigation is initiated or not.

Compliance Monitoring and Enforcement Program

Figure 3.8.1 – Complaint Process



+ Anonymous complainant identities will be withheld

* Processes merge at Step 3 (Violation Level and Sanction Determination) in the Compliance Monitoring & Enforcement Program Process Diagram located in the Compliance Enforcement Authority Functional Band

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3.8.2 Anonymous Complainant Notification Procedure

An anonymous complainant who believes, or has information indicating, there has been a violation of a Reliability Standard, can report the possible violation and request that the complainant's identity not be disclosed.⁹ All Complaints lodged by a person or entity requesting that the complainant's identity not be disclosed shall be investigated by NERC following the procedural steps described in Section 3.8.1. Anonymous Complaints received by a Regional Entity will either be directed to NERC or the Regional Entity will collect and forward the information to NERC, at the Regional Entity's discretion. Neither NERC nor the Regional Entity shall disclose the identity of any person or entity reporting possible violations to NERC or to a Regional Entity that requests that his/her/its identity not be revealed. The identity of the complainant will only be known by NERC and in the case where a Regional Entity collects the information, by NERC and the Regional Entity. If the Compliance Enforcement Authority determines that a Compliance Violation Investigation is not warranted, it will notify the complainant, NERC, and the Registered Entity that no further action will be taken.

4.0 ANNUAL IMPLEMENTATION PLANS

4.1 NERC Compliance Monitoring and Enforcement Program Implementation Plan

NERC will maintain and update the NERC Implementation Plan, to be carried out by Compliance Enforcement Authorities in the performance of their responsibilities and duties in implementing the NERC Compliance Monitoring and Enforcement Program. The NERC Implementation Plan will be provided to the Regional Entities by October 1 of each year and will specify the Reliability Standards requiring reporting by Registered Entities to the Compliance Enforcement Authority to provide verification of compliance through one of the monitoring methods described in this Compliance Plan document. The NERC Implementation Plan will be posted on the NERC web site.

4.2 Regional Entity Implementation Plan

By November 1 of each year, Regional Entities will submit a Regional Implementation Plan for the following calendar year to NERC for approval. The Regional Implementation Plan and the Regional Entity's other relevant Compliance Program documents shall be posted on the Regional Entity's Web site.

5.0 ENFORCEMENT ACTIONS

The Compliance Enforcement Authority shall determine (i) whether there have been violations of Reliability Standards by Registered Entities within the Compliance Enforcement Authority's area of responsibility, and (ii) if so, the appropriate remedial actions, and penalties and sanctions, as prescribed in the NERC Sanction Guidelines (Appendix 4B to the NERC Rules of Procedure). NERC will work to achieve consistency in the application of the Sanction Guidelines by Regional Entities by review of penalties and sanctions, and each Regional Entity shall provide to

⁹NERC has established a Compliance Hotline that may be used for the submission of Complaints by persons or entities that do not want his/her/its identity disclosed (see www.nerc.com for additional information).

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NERC such information as is requested by NERC concerning any penalty, sanction, or remedial actions imposed by the Regional Entity.

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information other than in the context of the hearing procedures is unreasonable, the party may request a written determination from the NERC compliance program officer.

5.1 Notification to Registered Entity of Alleged Violation

If the Compliance Enforcement Authority alleges that a Registered Entity has violated a Reliability Standard, the Compliance Enforcement Authority shall provide written notice of Alleged Violation and sanction (signed by an officer or designee) to the Registered Entity (CEO or equivalent and compliance contact) and NERC. The Compliance Enforcement Authority may also issue an initial notice of Alleged Violation, without specifying the proposed penalty or sanction, to the Registered Entity. The notice of Alleged Violation and sanction shall contain, at a minimum:

- (i) the Reliability Standard and requirement(s) thereof the Registered Entity has allegedly violated,
- (ii) the date and time the Alleged Violation occurred (or is occurring),
- (iii) the facts the Compliance Enforcement Authority believes demonstrate or constitute the Alleged Violation,
- (iv) the proposed penalty or sanction, if any, determined by the Compliance Enforcement Authority to be applicable to the Alleged Violation in accordance with the NERC Sanction Guidelines, including an explanation of the basis on which the particular penalty or sanction was determined to be applicable,
- (v) notice that the Registered Entity shall, within thirty (30) days, elect one of the following options or the Compliance Enforcement Authority will deem the Registered Entity to have accepted the determination of violation and proposed penalty or sanction:
 - 1. agree with the Alleged Violation and proposed penalty or sanction, and agree to submit and implement a Mitigation Plan to correct the violation and its underlying causes, and may provide a response in accordance with Section 5.2, or
 - 2. agree to the Alleged Violation and agree to submit and implement a Mitigation Plan to eliminate the violation and its underlying causes, but contest the proposed penalty or sanction, and may provide a response in accordance with Section 5.2, or
 - 3. contest both the Alleged Violation and proposed penalty or sanction, and

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- (vi) notice that the Registered Entity may elect to submit a Mitigation Plan while contesting the Alleged Violation and/or the proposed penalty or sanction, and that submission of a Mitigation Plan will not waive the Registered Entity's right to contest the Alleged Violation and/or the proposed penalty or sanction; and
- (vii) required procedures to submit the Registered Entity's Mitigation Plan.

NERC shall forward a copy of the notice of Alleged Violation to FERC and any Applicable Governmental Authority within two (2) business days of receipt from the Compliance Enforcement Authority.

5.2 Registered Entity Response

If the Registered Entity does not contest or does not respond to the notice of Alleged Violation within thirty (30) days, it shall be deemed to have accepted the Compliance Enforcement Authority's determination of violation and sanction (if applicable), in which case the Compliance Enforcement Authority shall issue to the Registered Entity and NERC a final report of Confirmed Violation. A Registered Entity may provide a written explanatory statement to accompany the final report.

If the Registered Entity contests the Alleged Violation or the proposed sanction, the Registered Entity shall submit to the Compliance Enforcement Authority a response explaining its position, signed by an officer employee, attorney or other authorized representative, together with any supporting information and documents. The Compliance Enforcement Authority shall schedule a conference with the Registered Entity within ten (10) business days after receipt of the response. If the Compliance Enforcement Authority and the Registered Entity are unable to resolve all issues within forty (40) days after the Registered Entity's response, the Registered Entity may request a hearing. If no hearing request is made the violation will be become a Confirmed Violation when filed by NERC with FERC or the Applicable Governmental Authority.

If a hearing is requested the Compliance Enforcement Authority shall initiate the hearing process by convening a hearing body and issuing a written notice of hearing to the Registered Entity and the hearing body and identifying the Compliance Enforcement Authority's designated hearing representative.¹⁰

5.3 Hearing Process for Compliance Hearings

The Compliance Enforcement Authority hearing process is set forth in **Attachment 2**.

5.4 Settlement Process

¹⁰If the dispute involves a proposed Mitigation Plan, which has not been accepted by the Compliance Enforcement Authority, the Registered Entity may file a request for hearing with the Compliance Enforcement Authority.

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Settlement negotiations may occur at any time, including prior to the issuance of a notice of Alleged Violation and sanction until a notice of penalty is filed with FERC or Applicable Governmental Authority. All settlement negotiations will be confidential until such time as the settlement is approved by NERC. For all settlement discussions, the Compliance Enforcement Authority shall require the Registered Entity to designate an individual(s) authorized to negotiate on its behalf. All settlement agreements must conform to the requirements of NERC Rule of Procedure 403.18 and, if approved, must provide for waiver of the Registered Entity's right to further hearings and appeal.

The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement.

The Regional Entity shall report the terms of all settlements of compliance matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under other, similar circumstances. Based on this review, NERC will either approve the settlement or reject the settlement and notify the Regional Entity and the Registered Entity of changes to the settlement that would result in approval. If NERC rejects the settlement, the Regional Entity will attempt to negotiate a revised settlement agreement with the Registered Entity including any changes to the settlement specified by NERC.

NERC will (i) report the approved settlement of the violation to FERC or the Applicable Governmental Authority, and (ii) publicly post the violation settled (regardless of whether the settlement includes or does not include an admission of a violation) and the resulting penalty or sanction provided for in the settlement. This posting shall include a copy of the settlement or a description of the terms of the settlement. The Compliance Enforcement Authority will issue a letter setting forth the final settlement terms including all penalties, sanctions and mitigation requirements provided for in the final settlement. Postings of Confirmed Violations are addressed in Section 8.0.

5.5 NERC Appeal Process

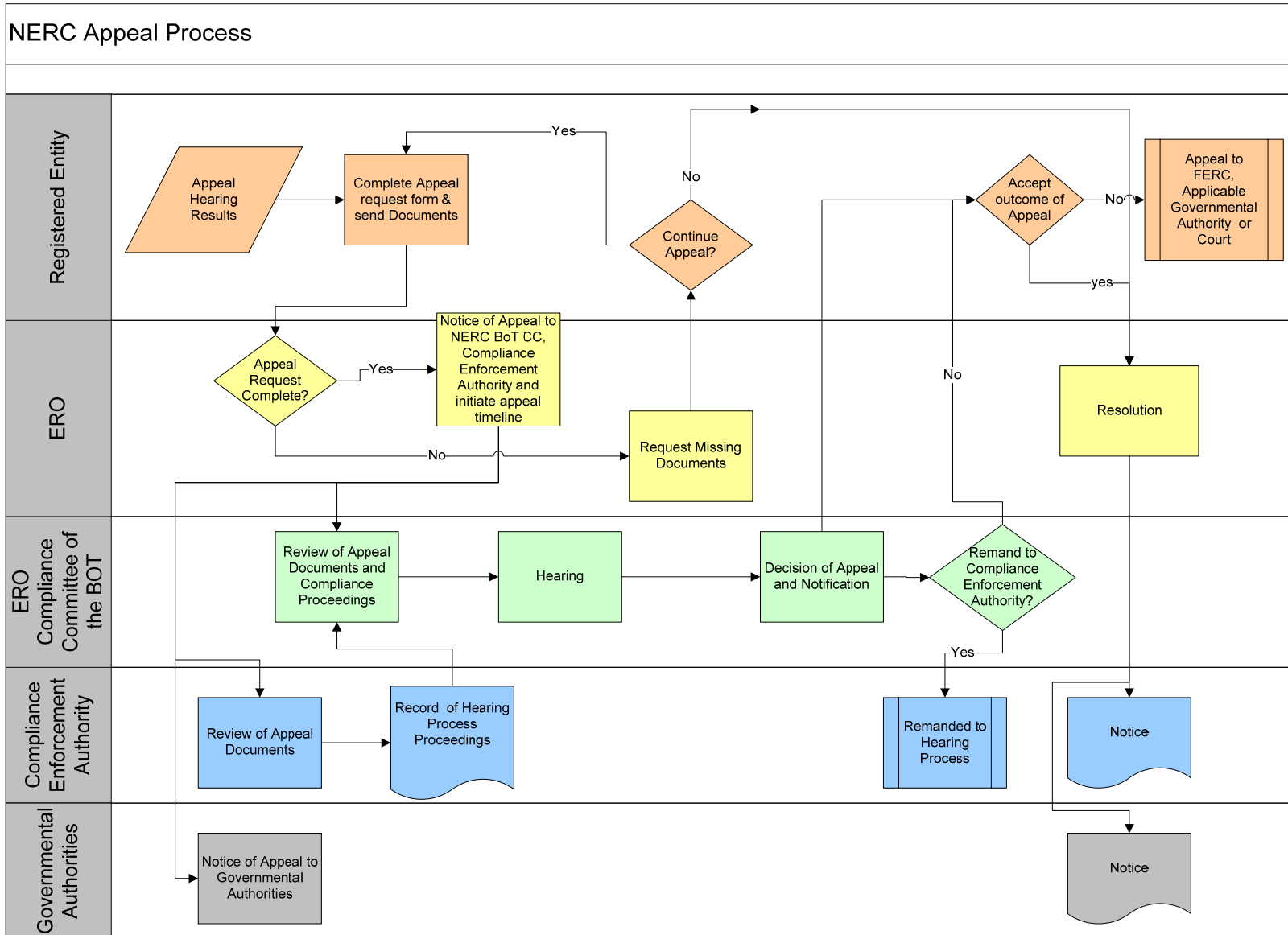
The Registered Entity may appeal the hearing body's decision to NERC, as provided for in NERC Rules of Procedure, Sections 407.3 and 410. The steps for the NERC appeals process are as shown in **Figure 5.5**:¹¹

On appeal, NERC shall either affirm the Regional Entity decision or remand to the Regional Entity with reasons for its decision. In addition, it may direct the Regional Entity to revise a decision that clearly conflicts with the goal of consistent national reliability enforcement or where the requirement to revise the decision is necessary for NERC's oversight of Regional Entity compliance activities, in which case any Party may reopen the proceedings on any issue, irrespective of whether the issue was previously litigated, settled or unopposed.

¹¹This process generally completes within ninety (90) days of NERC's receipt of request for appeal.

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Figure 5.5 – NERC Appeal Process



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5.6 Notice of Penalty; Effective Date

If the Registered Entity does not dispute the notice of Alleged Violation and the penalty and sanction or a decision has been entered finding a violation and all appeals have been concluded, NERC shall file a notice of penalty with FERC or any Applicable Governmental Authority. NERC will include with the notice of penalty any statement provided by the Registered Entity as set forth in Section 8.0. NERC may direct the Regional Entity to revise a penalty determination that clearly conflicts with the goal of consistent national reliability enforcement, in which case any Party may reopen the proceedings on any issue, irrespective of whether the issue was previously litigated, settled or unopposed.

The penalty or sanction will be effective upon the expiration of the thirty-day period following filing with the Commission of the notice of penalty or, if the Commission decides to review the penalty or sanction, upon final determination of the Commission.

6.0 MITIGATION OF VIOLATIONS OF RELIABILITY STANDARDS

Parties engaged in the process described in this section should consult with each other on the data and information that would be appropriate for effectively addressing this section's process requirements. If a party believes that a request for data or information other than in the context of the hearing procedures is unreasonable, the party may request a written determination from the NERC compliance program officer.

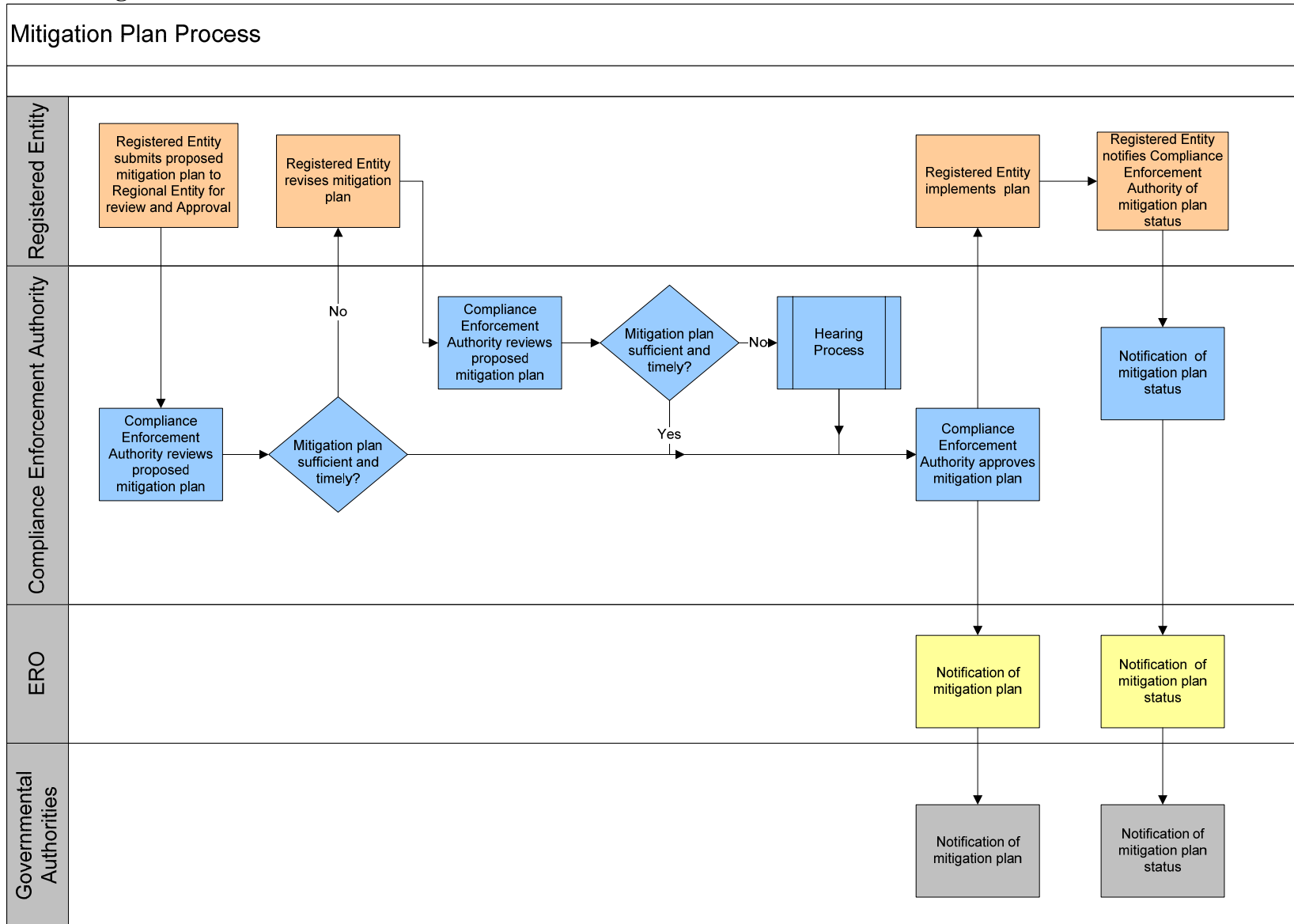
6.1 Requirement for Submission of Mitigation Plans

A Registered Entity found to be in violation of a Reliability Standard that requires a mitigation plan shall file with the Compliance Enforcement Authority (i) a proposed Mitigation Plan to correct the violation, or (ii) a description of how the violation has been mitigated, and any requests for extensions of Mitigation Plans or a report of completed mitigation.

Figure 6.1 shows the process steps for Mitigation Plans.

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Figure 6.1 – Mitigation Plan Process



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6.2 Contents of Mitigation Plans

A Mitigation Plan shall include the following information:

- The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
- The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
- The cause of the Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
- The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed Violation(s).
- The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
- A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
- Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission.
- Any other information deemed necessary or appropriate

The Mitigation Plan shall be signed by an officer employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

6.3 Timetable for Completion of Mitigation Plans

The Mitigation Plan shall be completed in time to have a reasonable potential to correct all of the violation(s) prior to the next applicable compliance reporting/assessment period after occurrence of the violation for which the Mitigation Plan is submitted. In all cases the Mitigation Plan should be completed without delay. The Compliance Enforcement Authority will expect full compliance with the Reliability Standard to which the Mitigation Plan is applicable at the next report or assessment of the Registered Entity. At the Compliance Enforcement Authority's discretion, the completion deadline may be extended for good cause including: (i) short assessment periods (i.e., event driven or monthly assessments), and (ii) construction requirements in the Mitigation Plan that extend beyond the next assessment period or other

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extenuating circumstances. If the Mitigation Plan extends beyond the next applicable reporting/assessment period, sanctions for any violation of the applicable Reliability Standard(s) occurring during the implementation period will be held in abeyance and will be waived if the Mitigation Plan is satisfactorily completed.

Any violations assessed during the period of time the accepted Mitigation Plan is being implemented will be recorded by the Compliance Enforcement Authority with associated sanctions or penalties. Regional Entities will report any findings of violations recorded during this time period to NERC with the notation that the Registered Entity is working under an accepted Mitigation Plan with an extended completion date with penalties and sanctions held in abeyance until completion of the Mitigation Plan. Upon completion of the accepted Mitigation Plan in accordance with Section 6.6, the Compliance Enforcement Authority will notify the Registered Entity that any findings of violations of the applicable Reliability Standard during the period that the accepted Mitigation Plan was being implemented have been waived and no penalties or sanctions will apply. Regional Entities will also notify NERC of any such waivers of violations of Reliability Standards.

A request for an extension of any milestone or the completion date of the accepted Mitigation Plan by a Registered Entity must be received by the Compliance Enforcement Authority at least five (5) business days before the original milestone or completion date. The Compliance Enforcement Authority may accept a request for an extension or modification of a Mitigation Plan if the Compliance Enforcement Authority determines the request is justified, and shall notify NERC of the extension or modification within five (5) business days.

If a Mitigation Plan submitted by a Registered Entity is rejected by the Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, the Registered Entity shall be subject to any findings of violation of the applicable Reliability Standards during the period the Mitigation Plan was under consideration and to imposition of any penalties or sanctions imposed for such violations.

6.4 Submission of Mitigation Plans

A Mitigation Plan may be submitted at any time but shall have been submitted by the Registered Entity within thirty (30) days after being served the notice of Alleged Violation and penalty or sanction, if the Registered Entity does not contest the violation and penalty or sanction. If the Registered Entity disputes the notice of Alleged Violation or penalty or sanction, the Registered Entity shall submit its Mitigation Plan within ten (10) business days following issuance of the written decision of the hearing body, unless the Registered Entity elects to appeal the hearing body's determination to NERC. The Registered Entity may choose to submit a Mitigation Plan while it contests an Alleged Violation or penalty or sanction; such submission shall not be deemed an admission of a violation or the appropriateness of a penalty or sanction. If the Registered Entity has not yet submitted a Mitigation Plan, or the Registered Entity submits a Mitigation Plan but it is rejected by the Compliance Enforcement Authority or the hearing body in accordance with Section 6.5, any subsequent violations of the Reliability Standard identified by the Compliance Enforcement Authority before the hearing body renders its decision will not be held in abeyance and will be considered as repeat violations of the Reliability Standard.

6.5 Review and Acceptance or Rejection of Proposed Mitigation Plans

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Unless extended by the Compliance Enforcement Authority, it will complete its review of the Mitigation Plan, and will issue a written statement accepting or rejecting the Mitigation Plan, within thirty (30) days of receipt; otherwise the Mitigation Plan will be deemed accepted. If the Compliance Enforcement Authority rejects a Mitigation Plan, the Compliance Enforcement Authority will provide the Registered Entity with a written statement describing the reasons for the rejection, and will require the Registered Entity to submit a revised Mitigation Plan by the Required Date. The Compliance Enforcement Authority will notify the Registered Entity within ten (10) business days after receipt of a revised Mitigation Plan whether the Compliance Enforcement Authority will accept or reject the revised Mitigation Plan and provide a written statement describing the reasons for rejection and the Required Date for the second revised Mitigation Plan. If the second review results in rejection of the Mitigation Plan, the Registered Entity may request a hearing in accordance with the Hearing Process, by submitting to the Compliance Enforcement Authority a written request for hearing including an explanation of why the Mitigation Plan should be accepted. After the hearing is completed, the Compliance Enforcement Authority will issue a written statement accepting a Mitigation Plan it deems as appropriate.

Regional Entities will notify NERC within (5) five business days of the acceptance of a Mitigation Plan and will provide the accepted Mitigation Plan to NERC. NERC will review the accepted Mitigation Plan and will notify the Regional Entity, which will in turn notify the Registered Entity, as to whether the Mitigation Plan is approved or disapproved by NERC. If NERC disapproves a Mitigation Plan that was accepted by the Regional Entity, NERC shall state its reasons for the rejection, and may state the changes to the Mitigation Plan that would result in approval by NERC. NERC will submit to the Commission, as non-public information, an approved Mitigation Plan relating to violations of Reliability Standards within seven (7) business days after NERC approves the Mitigation Plan.

6.6 Completion/Confirmation of Implementation of Mitigation Plans

The Registered Entity shall provide updates at least quarterly to the Compliance Enforcement Authority on the progress of the Mitigation Plan. The Compliance Enforcement Authority will track the Mitigation Plan to completion and may conduct on-site visits and review status during audits to monitor Mitigation Plan implementation.

Upon completion of the Mitigation Plan, the Registered Entity shall provide to the Compliance Enforcement Authority certification, signed by the an officer, employee, attorney or other authorized representative of the Registered Entity, that all required actions described in the Mitigation Plan have been completed and shall include data or information sufficient for the Compliance Enforcement Authority to verify completion. The Compliance Enforcement Authority shall request such data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard.

In the event all required actions in the Mitigation Plan are not completed within the applicable deadline including any extensions of the original deadline granted under section 6.3, any violation(s) of a Reliability Standard subject to the Mitigation Plan that occurred during the originally scheduled time period for completion will be enforced immediately and a new

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Mitigation Plan must be submitted for acceptance by the Compliance Enforcement Authority. In addition, the Compliance Enforcement Authority may conduct a Compliance Audit of, or issue a Remedial Action Directive to, the Registered Entity.

Regional Entities will provide to NERC the quarterly status reports and such other information as NERC requests, and will notify NERC when each Mitigation Plan is verified to have been completed.

6.7 Recordkeeping

The Compliance Enforcement Authority will maintain a record containing the following information for each Mitigation Plan:

- Name of Registered Entity.
- The date of the violation.
- Monitoring method by which the violation was detected, i.e., Self-Certification, Self-Reporting, Compliance Audit, Compliance Violation Investigation, Complaint, etc.
- Date of notification of violation and sanction.
- Expected and actual completion date of the Mitigation Plan and major milestones.
- Expected and actual completion date for each required action.
- Accepted changes to milestones, completion dates, or scope of Mitigation Plan.
- Registered Entity's completion notice and data submitted as evidence of completion.

7.0 REMEDIAL ACTION DIRECTIVES

The Compliance Enforcement Authority may issue a Remedial Action Directive when such action is immediately necessary to protect the reliability of the bulk power system from an imminent threat. A Remedial Action Directive may include, but is not limited to, any of the following: specifying operating or planning criteria, limits, or limitations; requiring specific system studies; defining operating practices or guidelines; requiring confirmation of data, practices, or procedures through inspection testing or other methods; requiring specific training for personnel; requiring development of specific operating plans; directing a Registered Entity to develop and comply with a plan to remediate a violation; imposing increased auditing or additional training requirements; and requiring a Registered Entity to cease an activity that may constitute a violation of a Reliability Standard.

A Remedial Action Directive may be issued to a Registered Entity at any time, including during any procedures relating to an Alleged Violation of a Reliability Standard. The Compliance Enforcement Authority will specify if a Remedial Action Directive obviates the need for a Mitigation Plan.

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Prior to issuing a Remedial Action Directive, the Regional Entity shall consult the Reliability Coordinator for the Registered Entity, if applicable, to ensure that the Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator.

Any Remedial Action Directive must be provided in a notice to the Registered Entity and shall include (i) a list of the violations or possible violations of Reliability Standards that are the basis for issuance of the Remedial Action Directive; (ii) a discussion of the factual basis for the Remedial Action Directive; (iii) a deadline for compliance and (iv) notice to the Registered Entity that failure to comply with the directive by the Required Date may result in further Remedial Action Directives or significantly increased sanctions. The Compliance Enforcement Authority will monitor implementation of Remedial Action Directives as necessary to verify compliance.

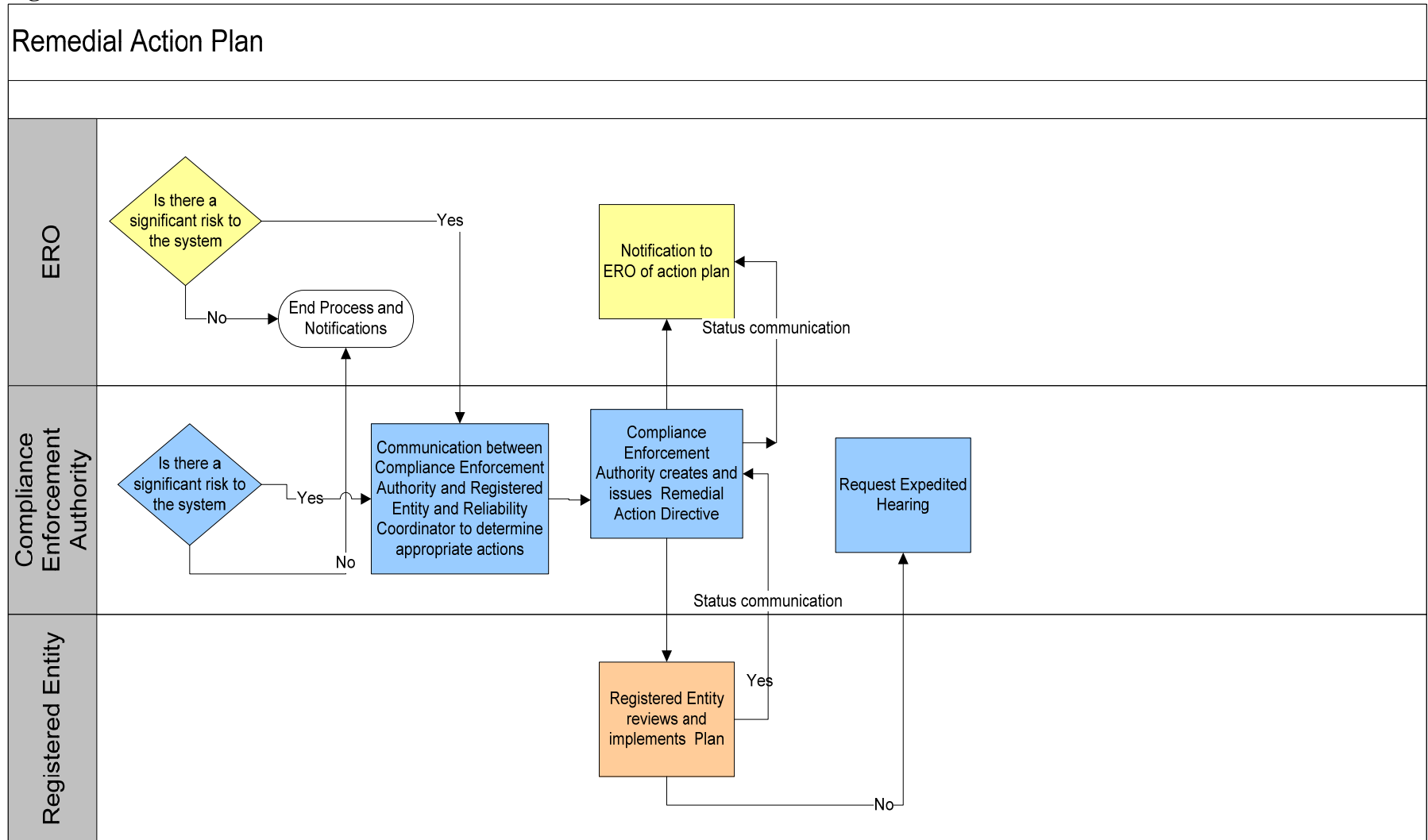
The Regional Entity will notify NERC within two (2) business days after issuing a Remedial Action Directive.

Once the Compliance Enforcement Authority has given the Registered Entity notice of the Remedial Action Directive, the Registered Entity may contest the Remedial Action Directive by giving written notice to the Compliance Enforcement Authority within two (2) business days following receipt of notice of the Remedial Action Directive. Due to the urgency of resolving any objections to a Remedial Action Directive, the hearing shall be conducted under the expedited hearing process set forth in Section 1.9 of **Attachment 2, Hearing Process**. Notice to contest the Remedial Action Directive and participation in the hearing process set forth in Section 1.9 of **Attachment 2, Hearing Process** shall constitute the Registered Entity's right to appeal the Remedial Action Directive. The Registered Entity may elect not to implement the Remedial Action Directive until the hearing process is completed, or may proceed with implementing the Remedial Action Directive even if it is contesting the Remedial Action Directive.

Figure 7.0 shows the process steps for a remedial action.

Compliance Monitoring and Enforcement Program

Figure 7.0 – Remedial Action Process



Compliance Monitoring and Enforcement Program

8.0 REPORTING AND DISCLOSURE

Regional Entities shall prepare and submit to NERC all required reports (including those required by NERC Rules of Procedure, Sections 403.14, 403.18 and 403.19, containing current information concerning (1) Registered Entity compliance with Reliability Standards, (2) all Alleged and Confirmed Violations of Reliability Standards by Registered Entities, (3) the status of Alleged Violations, (4) sanctions and penalties, (5) remedial actions imposed, and (6) Mitigation Plan(s) accepted including dates for all required actions and for completion.

Regional Entities shall report to NERC, on a confidential basis, 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 five (5) business days, unless the violation indicated or alleged has resulted in or has the potential to result in, a reduced level of reliability to the bulk power system (as provided in Section 408 of the NERC Rules of Procedure), in which cases the Regional Entity shall notify NERC within forty-eight (48) hours. NERC shall notify FERC or any Applicable Governmental Authority within two (2) business days of receiving such a report from the Regional Entity. Such reports shall include information regarding the nature of the violation indicated or alleged and its potential impact on the reliability of the bulk power system, the name of the Registered Entity involved, the status and timetable of any compliance violation assessment, and the name of a Regional Entity staff person knowledgeable about the information to serve as a point of contact, as required by Section 408 of the NERC Rules of Procedure and 18 C.F.R. §39.7(b)

Regional Entities shall report to NERC at least quarterly the status of violations of Reliability Standards, regardless of significance, that have not yet resulted in a final determination of violation or have not completed the Hearing Process, or for which mitigation activities (including activities being carried out pursuant to a settlement) have not been completed. Regional Entities will ensure the information is current when these reports are provided.

Regional Entities shall report to NERC all Confirmed Violations of Reliability Standards by Registered Entities including all penalties, sanctions, Mitigation Plans and schedules, and settlements within ten (10) business days of each determination. At the same time, Regional Entities will provide the report to the affected Registered Entity, accompanied by a notice that the Registered Entity may provide a statement to NERC to accompany the report when posted by NERC. The Registered Entity's statement must include the name, title, and signature of an officer, employee, attorney or other authorized representative of the Registered Entity.

NERC will publicly post each report of a Confirmed Violation, together with any statement submitted by the Registered Entity, no sooner than five (5) business days after the report is provided by the Regional Entity to NERC and the Registered Entity.

NERC will provide reports quarterly to FERC and the Applicable Governmental Authorities on the status of all Alleged and Confirmed Violations for which mitigation activities have not been completed. NERC will publish public reports quarterly on its Web site of all Confirmed Violations of Reliability Standards during the quarter just completed, with the identity of the violator.

Compliance Monitoring and Enforcement Program

9.0 DATA RETENTION AND CONFIDENTIALITY

9.1 Records Management

The Compliance Enforcement Authority records management policy shall provide for a routine and orderly process for the retention and disposal of electronic and paper records related to the Compliance Program, ensure verification of compliance with appropriate business, regulatory, and legal requirements and at a minimum conform to the Reliability Standards data retention requirements of the Reliability Standards. The policy shall allow for the maintenance of records as required to implement the Compliance Program.

9.2 Retention Requirements

The Compliance Enforcement Authority records management policy will require that information and data generated or received pursuant to Compliance Program activities, including Compliance Audits, Self-Certifications, Spot Checking, Compliance Violation Investigations, Self-Reporting, Periodic Data Submittals, Exception Reporting, and Complaints, as well as a hearing process, will be retained for the longer of (i) five (5) years or (ii) any retention period specified in a Reliability Standard or by FERC or an Applicable Governmental Authority. The obligation to retain information and data commences upon the initiation of the Compliance Program activity that produces the data or information. If the information or data is material to the resolution of a controversy, the retention period for such data shall not commence until after the controversy is resolved.

Upon request from NERC, Regional Entities will provide to NERC copies of such information and data. NERC will retain the information and data in order to maintain a record of activity under the Compliance Program. In providing the information and data to NERC, the Regional Entity shall preserve any mark of confidentiality.

9.3 Confidentiality and Critical Energy Infrastructure Information

9.3.1 Definitions

Information or data generated or received pursuant to Compliance Program activities, including a hearing process, shall be treated in a confidential manner pursuant to the provisions of Section 1500 of the NERC Rules of Procedure. The terms “confidential information,” “confidential business and market information,” “critical energy infrastructure information,” and “critical infrastructure” shall have the meanings stated in Section 1501 of the NERC Rules of Procedure.

9.3.2 Protection of Confidential Information

The Compliance Enforcement Authority personnel (including any contractors, consultants and industry volunteers) and committee members, and participants in Compliance Program activities shall be informed of, and agree to comply with, Section 1500 of the NERC Rules of Procedure concerning confidential information.

9.3.3 Critical Energy Infrastructure Information

Compliance Monitoring and Enforcement Program

The Compliance Enforcement Authority will keep confidential all critical energy infrastructure information in accordance with Section 1500 of the NERC Rules of Procedures. Information deemed to be critical energy infrastructure information shall be redacted and shall not be released publicly.

Compliance Monitoring and Enforcement Program

ATTACHMENT 1

PROCESS FOR NON-SUBMITTAL OF REQUESTED DATA

If data, information, or other reports (including Mitigation Plans) requested from a Registered Entity are not received by the Required Date, the Compliance Enforcement Authority may sequentially execute the following steps for each Reliability Standard for which the Compliance Enforcement Authority has requested data, information, or other reports. The Compliance Enforcement Authority however will afford the Registered Entity reasonable opportunity to resolve a difficulty submitting data due to time or format issues

Step 1: **The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity’s designated contact.**

Step 2: **The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity’s vice president or equivalent responsible for compliance (with a copy to NERC and the Registered Entity’s designated contact).**

Step 3: **The Compliance Enforcement Authority will issue a follow-up notification to the Registered Entity’s chief executive officer or equivalent (with a copy to NERC, the Registered Entity’s vice president or equivalent responsible for compliance and the Registered Entity’s designated contact).**

A full compliance audit may be scheduled at this step.

Step 4: **Thirty (30) days after the Required Date, a Reliability Standard violation may be applied at the Severe Violation Severity Level.**

Step 4 does not apply to Compliance Audits and mitigation tracking requests.

Compliance Monitoring and Enforcement Program

ATTACHMENT 2

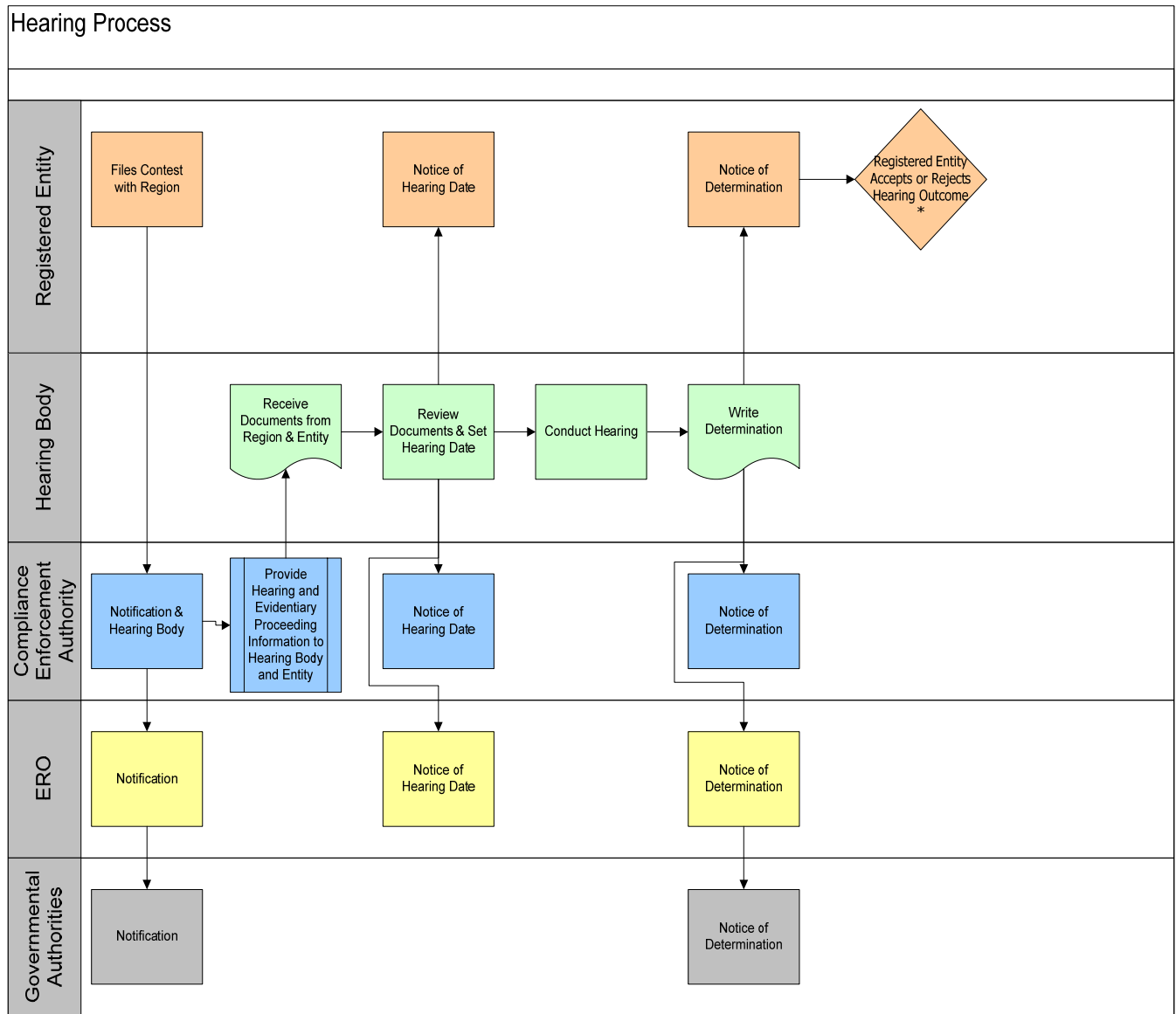
COMPLIANCE ENFORCEMENT AUTHORITY HEARING PROCESS

This **Attachment 2** sets forth the procedures to be followed to conduct compliance hearings. In this **Attachment 2**, the Compliance Enforcement Authority and the Registered Entity are sometimes referred to as the “parties.” Subject to the authority of the hearing body to alter or extend any time periods or deadlines specified in this **Attachment 2** and to hold such numbers of conferences and hearings as are necessary, it shall be the objective of the hearing process to complete the steps specified herein for formal compliance hearings within ninety (90) days following the issuance of written notice that the hearing body is convened.

Figure ATT-2 shows the hearing process steps.

Compliance Monitoring and Enforcement Program

Figure ATT-2 –Hearing Process



*This merges with the Compliance Monitoring & Enforcement Program flow diagram at the Registered Entity Accepts or Rejects Hearing Outcome decision box

1.0 HEARING PROCEDURES

1.1 APPLICABILITY, DEFINITIONS AND INTERPRETATION

1.1.1 Procedure Governed

These Hearing Procedures shall govern the procedure before the Western Electricity Coordinating Council (“WECC”) in proceedings concerning (i) disputes regarding whether any entity should be or has been properly registered or certified, (ii) whether Registered Entities within WECC’s area of responsibility have violated Reliability Standards, (iii) if so, to determine the appropriate Mitigation Plans, as well as any remedial actions, penalties or sanctions in accordance with the NERC *ERO Sanction Guidelines* and other applicable penalty guidelines

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approved by FERC pursuant to 18 C.F.R. Section 39.7(g)(2), or (iv) any other dispute that relates to enforcement of reliability standards properly before the WECC.

1.1.2 Deviation

To the extent permitted by law, any provision in these Hearing Procedures may be waived, suspended or modified by the Hearing Officer or the Hearing Panel for good cause shown, either upon the Hearing Officer's or the Hearing Panel's own motion or upon the motion of any Party.

1.1.3 Standards for Discretion

These Hearing Procedures, and any discretion exercised hereunder, shall be interpreted in a manner intended to ensure just and reasonable proceedings and to effectuate the following Standards for Discretion:

- a) Integrity of the Fact-Finding Process - The principal goal of the hearing process is to assemble a complete factual record to serve as a basis for a correct and legally sustainable ruling, decision or order.
- b) Fairness - Persons appearing in WECC proceedings should be treated fairly. To this end, Parties should be given fair notice and opportunity to present explanations, factual information, documentation and legal argument. Action shall be taken as necessary to eliminate any disadvantage or prejudice to a Party that would otherwise result from another Party's failure to act diligently and in good faith.
- c) Independence - The hearing process should be tailored to protect against undue influence from any Person, Party or interest group.
- d) Balanced Decision-Making - Decisions should be based solely on the facts and arguments of record in a proceeding and by individuals who satisfy the conflict of interest provisions of section 1.8.4 of these Hearing Procedures.
- e) Impartiality - Persons appearing before the Hearing Panel should not be subject to discriminatory or preferential treatment. Registered Entities should be treated consistently unless a reasonable basis is shown in any particular proceeding to depart from prior rulings, decisions or orders.
- f) Administrative Efficiency and Expedition - Proceedings shall be brought to a conclusion as swiftly as is possible in keeping with the other goals of the hearing process.

1.1.4 Definitions

Unless otherwise defined, capitalized terms shall have the meanings described in the WECC Compliance Monitoring and Enforcement Program. The following terms shall have the following meanings:

“Adjudicatory Officer,” means any person serving as a member of the Hearing Panel, Hearing Officer or Technical Advisor with respect to any proceeding.

Compliance Monitoring and Enforcement Program

“Bulk-Power System,” for the purposes of these procedures, has the identical meaning as the definition of “Bulk Electric System” under the NERC Glossary.

“Clerk” means the person designated by WECC to receive filings and serve documents issued by or on behalf of, and otherwise provide support for, the Hearing Panel and Hearing Officer.

“Compliance Hearing Body,” is as defined in the WECC Compliance Hearing Body Charter.

“Critical Energy Infrastructure Information,” as defined in Section 1501 of the NERC Rules of Procedure.

“Critical infrastructure,” as defined in Section 1501 of the NERC Rules of Procedure.

“Cybersecurity Incident,” as defined in 18 C.F.R. § 39.1.

“Director of Compliance” means the Director of Compliance of WECC, who is responsible for the management and supervision of Staff.

“ERO” means the Electric Reliability Organization, currently the North American Electric Reliability Corporation, or any successor organization, certified by FERC pursuant to 18 C.F.R. Section 39.3.

“FERC” means the Federal Energy Regulatory Commission.

“Hearing Panel” means the persons assigned to render a final decision in matters requiring a determination under these Hearing Procedures.

“NERC” means North American Electric Reliability Corporation.

“Notice of Proceeding” means (1) a request for a hearing by a Registered Entity to contest an Alleged Violation, a proposed Penalty or a Remedial Action Directive, (2) a request for hearing by a Registered Entity or the Staff concerning a dispute as to whether the entity should be registered or certified, (3) a request for hearing by a Registered Entity in response to a Staff rejection of a proposed Mitigation Plan, or (4) any other notice that a proceeding has been properly commenced.

“Penalty” as used herein includes all penalties and sanctions, including but not limited to a monetary or non-monetary penalty; a limitation on an activity, function, operation or other appropriate sanction; or the addition of the Registered Entity to a reliability watch list composed of major violators.

“Person” means any individual, partnership, corporation, limited liability company, governmental body, association, joint stock company, public trust, organized group of persons, whether incorporated or not, or any other legal entity.

“Reliable Operation” has the meaning set forth in the Federal Power Act, as it may be amended from time to time.

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“Reliability Standards” means standards approved by FERC pursuant to Section 215 of the Federal Power Act and 18 C.F.R. Section 39.5, as such standards are authorized and in effect from time to time.

“Service List,” means the list maintained by the Clerk identifying the name, address, telephone number, and facsimile number and email address, if available, of each Party, the Hearing Officer, the Director of Compliance, the Registered Entity’s designated agent for service and any other individuals designated for service by a Party.

“Staff” means individuals employed or contracted by WECC who have the authority, among other things, to make initial determinations as to need for registration, compliance or violation with Reliability Standards by Registered Entities and associated Penalties, Mitigation Plans, and Remedial Action Directives.

“WECC’s area of responsibility” means WECC’s corporate region.

1.2 FILING AND SERVICE

1.2.1 Form and Content of Filings

All filings shall include (1) a caption that sets forth the title and docket number (if any) of the proceeding, (2) a heading that describes the filing and the Party on whose behalf the filing is made, (3) the name, address, telephone number and email address of the Party’s representative of the making, and (4) the service list. All filings shall be signed by an authorized representative of the Party on whose behalf the filing is made. The signature constitutes a certificate that the signer has read the filing, that the contents are true to the best of the signer’s knowledge and belief, and that service required by these Hearing Procedures has been made. Each filing shall include a service list identifying the Parties and authorized representatives served.

All filings shall be typewritten, printed, reproduced or prepared using a computer or other word or data processing equipment on white paper 8½ inches by 11 inches with inside text margins of not less than one inch. Page numbers shall be centered and have a bottom margin of not less than ½ inch. Line numbers, if any, shall have a left-hand margin of not less than ½ inch. Typeface shall be either Arial or Times New Roman font, black type on white background, and at least 12-point (at least 10-point for footnotes). Written testimony shall include continuous line numbers on the left-hand side of each page of text. Attachments shall, whenever practical, conform to these requirements, except that any typeface shall be at least 8-point. Confidential documents shall comply with the requirements of any Protective Order issued under Section 1.10.

1.2.2 Submission of Filings

The original and five copies of any filing shall be made with the Clerk of WECC during WECC business hours (0800-1630 Mountain Time) each day except Saturday, Sunday, legal holidays and any other day declared by the WECC. Filing is complete when date stamped by the Clerk or received in the electronic mail by the Clerk.

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Unless as otherwise provided, a filing may be effected by electronic mail if the filed documents are in pdf format and the requisite number of copies are delivered to the Clerk's office within seven days thereafter.

1.2.3 Service

A copy of each filing must served on each person listed on the service list, by personal delivery, email (with paper copy to follow), United States mail (first class or registered) mail or deposit with an express courier service. The Clerk shall provide copies of all issuances of the Hearing Officer and Hearing Panel by similar means to each person listed on the service list and each member of the Hearing Panel, provided that the Initial and Final Decisions shall be served electronically and by certified mail on the Registered Entity and the Staff. Service is effective immediately if by personal delivery or email, upon deposit in the U.S. mail, or upon delivery to an express courier service.

1.2.4 Time

The time in which any action is required to be done shall be computed by excluding the day of the act or event from which the time period begins to run, and by including the last day of the time period, unless the last day is a Saturday, Sunday, legal holiday or any other day upon which the Office of WECC is closed, in which event the last day shall be the first succeeding day that is not such a day. The time in which any action is required to be done shall be computed by excluding intermediate Saturdays, Sundays, and legal holidays, or days upon which the Office of WECC is closed when the period is less than fifteen (15) days. Any Party requesting an extension of time after the expiration of the period prescribed shall demonstrate circumstances sufficient to justify the failure to act in a timely manner. Unless otherwise provided, whenever a Party has the right or is required to do some act within a prescribed period after the service, four days shall be added to the prescribed period when served by mail and the period until the next business day shall be added if served by courier.

1.3 PLEADINGS, MOTIONS AND OTHER FILINGS

1.3.1 Initiation of a Proceeding

A proceeding is initiated by a Notice of Proceeding. Any Notice of Proceeding issued by the WECC staff and any Notice of Alleged Violation shall clearly state (as applicable) that the Registered Entity has the right to contest proposed registration or certification, that the Registered Entity has a right to a hearing, and shall describe or include (as applicable) the alleged violation, the proposed Penalty, the Staff's rejection of the proposed Mitigation Plan, or the issuance of a Remedial Action Directive. The Notice of Proceeding shall identify the Hearing Panel and, if applicable, the Hearing Officer assigned to the proceeding.

Upon the issuance or receipt of a Notice of Proceeding, the Clerk shall assign a docket number that includes (separated by dashes) (1) the last two digits of the month and year, (2) the letters

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“[Regional Entity designation]”, and (3) a four digit number that is assigned sequentially beginning January 1 of each year (*e.g.*, 0707-WECC-0001).

Within five business days after the issuance of a Notice of Proceeding, WECC staff shall file and serve the notice of the Alleged Violation, the sanction originally provided to the Registered Entity and copies of any documents gathered and reviewed by WECC in the course of determining an Alleged Violation has occurred and in determining the proposed sanction or penalty. Within twenty days after the issuance of the Notice of Proceeding, (1) the Registered Entity shall file (as applicable) an explanation of why the Alleged Violation is in error, why the registration determination is in error, why the proposed penalty or sanction is inappropriate and/or the Registered Entity’s proposed Mitigation Plan, together with copies of all documents relied on by the Registered Entity to support its position, and (2) (if applicable) the Staff shall file its explanation why the Registered Entity’s proposed Mitigation Plan was not accepted, and copies of all documents relied on by the Registered Entity to support its position.

1.3.2 Amendments

Amendments to any filings initiating a proceeding or requesting a hearing may be allowed by the Hearing Officer or the Hearing Panel upon motion made within a reasonable time after the basis for the amendment became apparent, on such terms and conditions as are deemed to be just and reasonable.

1.3.3 Requirements for Motions

Unless otherwise provided, a Party may at any time seek any relief provided for under these Hearing Procedures or otherwise applicable authority by filing a motion in writing (or orally if during a hearing). All motions shall include a plain and concise statement of any facts upon which the motion is based, citations to the record or other sources, if available, any required verification under oath by a person having knowledge of the matters set forth in the filing, a description of the specific relief sought, and the authority that supports the request for relief. Unless otherwise provided, any responses to motions shall be filed within 14 days after service of the motion, and replies to responses shall be filed within seven days after service of the responses.

The Hearing Panel or Hearing Officer, in their discretion, may elect to hold oral argument on any matters in dispute.

1.3.4 Intervention; Consolidation of Related Proceedings

No interventions shall be permitted except upon approval of FERC. The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order two matters partially or fully consolidated for any or all purposes if (1) events giving rise to the proceeding are the subject of another proceeding involving another Registered Entity, (2) it appears likely that consolidation is necessary to obtain all information necessary for decision and (3) reasonable procedures can be developed to prevent inappropriate disclosure of confidential information. Consolidation shall not be ordered unless all Parties in both proceedings have been provided notice and opportunity to be heard

1.3.5 Summary Disposition

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The Hearing Panel or Hearing Officer may, upon motion or their own initiative, order summary disposition, in whole or in part, if there are no genuine issues of material fact with respect to the matters subject to summary disposition and the Party is entitled to summary disposition as a matter of law. Any factual allegations contained in a motion for Summary Disposition shall be supported by affidavit.

1.3.6 Interlocutory Review

For good cause shown, a Party may seek interlocutory review of any Hearing Officer ruling within 14 days after the ruling. The Hearing Panel may affirm, reverse, remand, decline to act or take any other action on the Hearing Officer's ruling.

1.3.7 Pre-Evidentiary Hearing Submission of Testimony and Evidence

With the exception of examination of an adverse Party, all witness testimony, exhibits, and any documents intended to be introduced in connection with cross-examination, shall be filed at least five days in advance of the evidentiary hearing pursuant to a schedule adopted for the proceeding.

1.3.8 Pre-Evidentiary Hearing Memorandum

Upon request of the Hearing Officer or the Hearing Panel, the Parties may be required to submit a memorandum prior to hearing describing the Party's position on the issue(s) in dispute, the key facts and arguments, and the applicable Reliability Standard, rules, orders or other authority. A Party will not be deemed to have waived any issue, fact or argument that is not set forth in a pre-evidentiary hearing memorandum.

1.4. DOCUMENT PRODUCTION

1.4.1 Inspection and Copying of Documents in Possession of Staff

(a) Documents to be Available for Inspection and Copying

Within five days of the initiation of the proceeding, the Staff shall make available to the Registered Entity for inspection and copying, all documents prepared by the Staff or obtained from the WECC, the Registered Entity or other sources, in connection with its investigation, including but not limited to all requests for information and responses, transcripts and transcript exhibits. Documents shall be made available during normal business hours at the WECC office where the documents are ordinarily maintained, or at such other office as the Hearing Panel or Hearing Officer, in his or her discretion, shall designate, or the Parties otherwise agree. The Registered Entity shall be responsible for the cost of photocopying, which shall be at a reasonable rate. Documents received by the Staff thereafter shall be made available to the Registered Entity within 14 days after receipt or as soon as possible if within 14 days of the evidentiary hearing.

(b) Documents That May Be Withheld

The following documents are not subject to disclosure:

- (1) Documents subject to the attorney-client or attorney work-product privileges;

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(2) Documents not containing material exculpatory evidence that would disclose (i) an examination, investigatory or enforcement technique or guideline of WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization; (ii) the identity of a source, including a federal, state, or foreign regulatory authority or a self-regulatory organization that furnished information or was furnished information on a confidential basis regarding an investigation, an examination, an enforcement proceeding, or any other type of civil or criminal enforcement action; or (iii) an examination, an investigation, an enforcement proceeding, or any other type of civil or criminal enforcement action under consideration by, or initiated by, WECC, a federal, state, or foreign regulatory authority, or a self-regulatory organization; or

(3) Upon motion granted by the Hearing Panel or Hearing Officer, documents that (a) are not discoverable under the Federal Rules of Civil Procedure, (b) do not contain material exculpatory evidence, and (3) are not necessary for a complete record.

Upon motion based on reasonable belief of a violation of these provisions or on their own motion, the Hearing Panel or Hearing Officer may require Staff (1) to submit a list of documents withheld or any withheld document and (2) disclose to Registered Entity any document not meeting the standards of this subsection.

1.4.2 Other Discovery Procedures

The Parties shall be entitled to utilize all discovery methods provided for in the Federal Rules of Civil Procedure, including requests for production of documents, written interrogatories, requests for admission, and depositions of witnesses under oath.

1.5 HEARINGS AND CONFERENCES

1.5.1 General

The Clerk shall issue a notice for each conference and hearing, which shall identify the matter(s) to be considered, the person(s) comprising the Hearing Panel or Hearing Officer, and the date, time and place of the hearing or conference. Unless otherwise ordered, all hearings and conferences shall be held during normal business hours at the principal office of WECC. Hearings need not be held on consecutive days.

All hearings, conferences, and other meetings shall be closed to the public, and all notices, rulings, orders or any other issuances of the Hearing Officer or Hearing Panel shall be nonpublic and held in confidence by the Parties unless the ERO or FERC determines that public release is appropriate. Only the Adjudicatory Officers, representatives of the Parties, and other necessary personnel (such as court reporters) shall be allowed to participate in or obtain information relating to the proceeding.

Upon a request, the Hearing Panel or Hearing Officer may permit Parties to appear and witnesses to testify via videoconference or teleconference at any conference or hearing if necessary to avoid undue expense or undue delay in the proceeding.

All hearings and (at the discretion of the Hearing Panel or Hearing Officer) all conferences shall be transcribed verbatim by a certified court reporter. A Party may request corrections to the transcript within 35 days after receipt of the transcript and any responses shall be filed within ten days thereafter. Each Party is responsible for the costs of a copy of any transcript ordered by it.

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1.5.2 Prehearing and Status Conferences

A prehearing conference shall be held within a thirty days after initiation of a proceeding, to identify issues then known to the Parties, establish a schedule and to address any other relevant matter. Any Party may request, and the Hearing Panel or Hearing Officer may call, a status conference at any time subsequent to the Prehearing Conference to address any issues that have arisen.

1.5.3 Evidentiary Hearings

A Party has the right to present such evidence, to make such objections and arguments, and to conduct such cross-examination as may be necessary to assure the true and full disclosure of the facts. All testimony shall be under oath.

Evidence is admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, but may be excluded if immaterial or unduly repetitious or prejudicial. The Hearing Panel or Hearing Officer may exclude material from the record only in response to a motion or objection by a Party.

Upon 14 days' advance notice and subject to the objection by another Party, any Party may call and cross-examine as an adverse witness, any other Party, or any employee or agent thereof.

The standard of proof in the hearing shall be by a preponderance of the evidence. The burden of persuasion shall rest upon Staff alleging noncompliance with a Reliability Standard, proposing a Penalty or Remedial Action Directive, or opposing a Registered Entity's Mitigation Plan.

Upon motion, the Hearing Panel or Hearing Officer may take official notice of and the type of information any of the following:

- 1) Rules, regulations, administrative rulings and orders, and written policies of governmental bodies and Regional Entities, including WECC;
- 2) Municipal and other ordinances;
- 5) Generally recognized scientific or technical facts within the specialized knowledge of WECC;
- 4) Other facts not reasonably subject to dispute; and
- 6) All other matters of which the courts of the United States may take judicial notice.

Any document, and any item officially noticed that exists in document form, shall be introduced into the record in the form of an exhibit.

The Hearing Panel or (prior to issuance of an Initial Decision) the Hearing Officer may reopen the evidentiary record and hold additional hearings if warranted by any changes in fact or law since the hearing.

1.5.4 The Record

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The record shall include the following:

- 1) The filing(s) that initiated the proceeding, responsive documents, and a list of all documents comprising the record ;
- 2) Notices, rulings, orders, decisions and other issuances of the Hearing Officer and Hearing Panel;
- 3) All motions, briefs and other filings;
- 4) All prefiled testimony, exhibits, other evidence, evidence excluded from the record, transcripts and matters officially noticed;
- 5) All Notices of *ex parte* communications and any notifications of recusal and motions for disqualification of any Adjudicatory Officer and any responses or replies thereto;
- 6) The Hearing Officer's Initial Decision, and exceptions thereto; and
- 7) The Hearing Panel's Final Decision and any Notice of Penalty therewith.

1.5.5 Briefs and Other Post-Hearing Pleadings

At the close of the evidentiary hearing, Parties may file initial briefs, proposed findings of fact and reply briefs. Absent good cause shown, post-hearing pleadings shall not seek to introduce additional evidence into the record after the hearing has ended.

1.6 DECISIONS

1.6.1 Initial Decisions

The Hearing Officer shall issue an Initial Decision that shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate proposed orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. Any proposal for a Penalty shall include a proposed Notice of Penalty. The Initial Decision shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be Critical Energy Infrastructure Information protected pursuant to Paragraph 1.10. The Initial Decision shall normally be issued within thirty days following the submission of post-hearing briefs, or, if waived, following the conclusion of the hearing.

Any Party may file exceptions to the Initial Decision and replies consistent with any deadlines established in the proceeding.

1.6.2 Hearing Panel Final Decision

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The Hearing Panel shall issue a Final Decision following the receipt of (1) the Initial Decision, any exceptions and replies thereto, and oral argument, if any, (where a Hearing Officer has been appointed) or (2) the briefs and reply briefs (where no Hearing Officer was appointed). The Hearing Panel shall strive, but shall not be required, to issue its Final Decision within thirty (30) days after the matter is ready for decision.

In cases where a Hearing Officer is appointed, the Final Decision may adopt, modify, amend or reject the initial opinion in its entirety or in part. The Final Decision shall include (1) a statement of each finding and conclusion, and the reasons or basis therefore, for all material issues of fact, law or discretion presented on the record, and (2) appropriate orders to dispose of the proceeding, including any Penalty, sanction, remedial action or Mitigation Plan required. If the Final Decision imposes a Penalty, it shall be entitled Final Order and Notice of Penalty. The Final Order shall note if the subject of the proceeding has been deemed to involve a Cybersecurity Incident or if any information in the proceeding was deemed to be critical energy infrastructure information protected pursuant to Paragraph 1.5.9.

When the Hearing Panel serves the Final Decision, it will inform the Parties of their appeal rights. The Clerk shall transmit the documents identified in Section 1.5.4 (1)-(2), (6)-(7) (which, together with any other portions of the record requested by the ERO, shall constitute the record for purposes of 18 C.F.R. § 39.7(d)(5)) to the ERO at the time it serves the ERO with the Final Decision.

1.6.3 Appeal

A Final Decision of the Hearing Panel may be appealed to NERC in accordance with NERC's Rules of Procedure, Section 410. The Clerk shall transmit the record of any docket to NERC that is the subject of an appealed Final Order.

1.6.4 Settlement

Settlement Agreements may be entered into at any time including prior to the issuance of a Notice of Proceeding or during an appeal at the ERO, until a Notice of Confirmed Violation, Notice of Penalty, Notice of Mitigation Plan or Remedial Action Directive, whichever is applicable, is filed with the appropriate regulatory authority. All Settlement Agreements entered into prior to the issuance of a Final Decision shall be subject to approval of the Hearing Panel.

Any rejected Settlement Agreement shall not be admissible into evidence and the proceedings shall continue as if the Settlement Agreement had not been filed.

1.7 PARTIES AND APPEARANCES

1.7.1 Parties

The Registered Entity and Staff shall be Parties to the proceeding. Unless otherwise authorized by FERC, a Person shall not be permitted to intervene.

1.7.2 Appearances

Parties shall file written appearances within seven (7) days after service of the filing initiating the proceeding.. A Party's written appearance shall identify the name(s) of each individual

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authorized to represent the Party in the proceeding exclusive of witnesses. An individual may appear on his or her own behalf. A corporation, association, partnership or governmental body may appear by an attorney or any *bona fide* officer or designee who has the authority to act on behalf of the Party.

A Party's written appearance shall state, with respect to each individual that the Party identifies for service, the individual's name, address, telephone number, and facsimile number and email address, if available, where service shall be made.

A Party may withdraw any individual from the Party's representation or otherwise change the identity of individuals authorized to represent the Party in a proceeding by filing a notice of a change in service list.

Any attorney appearing on behalf of a Party shall be licensed to practice and in good standing before the Supreme Court of the United States or the highest court of any State, territory of the United States or the District of Columbia.

1.7.3 Confidentiality

All participants in any proceeding before the Hearing Panel shall be take all actions necessary to be bound by confidentiality obligations consistent with NERC Rule of Procedure 1504.

1.8 RESPONSIBILITIES OF ADJUDICATORY OFFICERS

1.8.1 Hearing Panel

The Hearing Panel shall be selected from the Compliance Hearing Body, as provided in the WECC Compliance Hearing Body Charter, and the composition of the Hearing Panel shall assure, to the extent possible, that no two industry segments may control, and no single industry segment may veto, any decision by the Hearing Panel. The Hearing Panel is vested with all necessary the authority to preside over all matters relating to a proceeding, including the following:

1. To establish the scope of the proceeding, including segregation of issues into separate phases of the proceeding and consolidation of related proceedings;
2. Take such action as necessary to assure the confidentiality of the proceeding and documents produced in connection with the proceeding;
3. Establish and modify the schedule for the proceeding, and modify any deadline or required interval;
4. Supervise discovery and rule on any disputes relating thereto;

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5. Preside over prehearing conferences, status hearings, oral arguments and evidentiary hearings, including administering oaths and affirmations, ruling on evidentiary matters, requiring the introduction of additional evidence;
6. Issue a Final Decision and rule upon all motions and all other requests for relief;
7. Take other actions necessary and appropriate for the adjudication of the proceeding.

Unless waived by the Parties in a particular circumstance, all actions (including all rulings, orders and determinations) of the Hearing Panel shall require a quorum consisting of a majority of the persons assigned to the Hearing Panel. All rulings, orders and determinations of the Hearing Panel shall require the vote of a majority of the persons constituting a quorum. Where necessary, one or more persons assigned to the Hearing Panel may participate by teleconference as long as a majority are present in person; provided that all persons assigned to the Hearing Panel may participate by teleconference with respect to a Remedial Action Directive hearing. All rulings, orders and determinations shall be recorded in a written ruling or in a transcript and shall be designed to promote the conduct of a full, fair and impartial proceeding and to effectuate the standards of discretion.

1.8.2 Hearing Officer

WECC may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Hearing Officers and may thereby preside over any aspect of the proceeding to the same extent as the Hearing Panel, except that the Hearing Officer will issue an Initial Decision and the Final Decision or other order finally disposing of the proceeding or issues within the proceeding must be issued by the Hearing Panel.

1.8.3 Technical Advisor

The Hearing Officer and/or the Hearing Panel may designate one or more Staff members, third-party contractors, or industry stakeholders to serve as Technical Advisors to assist in any proceeding by providing technical advice.

1.8.4 Conflict of Interest

A person shall be disqualified from serving as an Adjudicatory Officer in any proceeding if (1) he or she has been involved in or consulted at any time in regard to any Staff investigation, initial determination of violation or Penalty, or assessment of a Registered Entity's proposed Mitigation Plan relating to the proceeding or (2) his or her participation would violate WECC's applicable conflict of interest policies. An Adjudicatory Officer shall recuse himself or herself from serving in proceeding if disqualified.

Any Adjudicatory Officer shall disclose to the Service List his or her identity, employment history and professional affiliations within two days of assignment to the proceeding.

1.8.5 Ex Parte Communications

No Adjudicatory Officer assigned to a proceeding may communicate concerning any matter relating to the proceeding, directly or indirectly with any Person who is not an Adjudicatory

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Officer with respect to a proceeding, except after reasonable notice to all Parties and opportunity to participate.

Any Adjudicatory Officer who makes or receives an *ex parte* communication shall, within seven (7) days, file and serve on the Parties a description of the date, time, place and substance of the communication and include any written *ex parte* communication.

1.8.6 Motion for Disqualification

Any Party may move to disqualify an Adjudicatory Officer on the basis of conflict of interest, or on the basis of a prohibited *ex parte* communication or other circumstances that could interfere with the impartial performance of his or her duties. The motion shall describe the underlying facts by affidavit and shall be filed within fifteen days after the Party learns of the facts believed to constitute the basis for disqualification or reasonably in advance of any hearing, whichever is earlier. The ruling shall be made by the Hearing Officer, but if no Hearing Officer has been assigned or the motion relates to the Hearing Panel, the ruling shall be made by the Hearing Panel. Any challenge to a disqualification ruling by a Hearing Officer is waived if no interlocutory appeal has been filed within five days of the ruling. Any disqualified Adjudicatory Officer shall be replaced as soon as practicable.

1.9 REMEDIAL ACTION DIRECTIVES

1.9.1 Initiation of Remedial Action Directive Hearing

Staff may issue a Remedial Action Directive to a Registered Entity at any time, including during any proceeding related to an alleged violation of a Reliability Standard. The Remedial Action Directive shall be provided by electronic mail and either personal delivery or express courier. WECC will notify NERC within two (2) days after its Staff issues a Remedial Action Directive.

The Registered Entity may contest the Remedial Action Directive by filing a written notice with the Clerk of the WECC that states that the Registered Entity contests the Remedial Action Directive and that the Registered Entity requests a Remedial Action Directive hearing. The Registered Entity shall attach a copy of the Remedial Action Directive to its written notice. The Registered Entity must provide such notice within two (2) days following electronic mail issuance of the Remedial Action Directive. If the Registered Entity does not give written notice to WECC within the required time period, the Registered Entity shall be deemed to have waived its right to contest the Remedial Action Directive.

The Clerk shall assign a docket number, and issue a Notice of Hearing.

1.9.2 Remedial Action Directive Procedure

Proceedings to address Remedial Action Directives shall be conducted only under the expedited hearing process set forth in this Paragraph 1.9.2. All other provisions of the Hearing Procedures

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shall apply to the Remedial Action Directive hearing unless inconsistent with or inapplicable to the procedures set forth in this paragraph.

The Remedial Action Directive hearing will be conducted according to the following guidelines:

- a) The Hearing Panel or Hearing Officer will hold a prehearing conference within two (2) days after receipt of the Registered Entity's request for a hearing.
- b) An evidentiary hearing will be conducted on the matter, in person or by teleconference, within seven (7) days after the prehearing conference. The provisions in Section 1.4 concerning document production shall not apply.
- c) At the evidentiary hearing, Staff and the Registered Entity shall have the opportunity to present oral witness testimony and evidence, which shall be rendered under oath, and to conduct cross-examination.
- d) At the evidentiary hearing, the Parties shall have the opportunity to make opening and closing statements, but shall not file any briefs or draft opinions, and oral argument shall not be held.
- e) The Hearing Panel shall issue a summary written decision within ten (10) days following the hearing, stating whether the Registered Entity shall or shall not be required to comply with the Remedial Action Directive and identifying any modifications to the Remedial Action Directive that it finds appropriate. In the event a Hearing Officer has been appointed, the Initial Decision will be issued within a timeframe that permits review and comment by the Parties and issuance of a summary written decision within the ten-day deadline.
- f) Within thirty (30) days following issuance of its summary written decision, the Hearing Panel shall issue a full written decision. The written decision shall state the conclusions of the Hearing Panel with respect to the Remedial Action Directive, and shall explain the reasons for the Hearing Panel's conclusions.
- g) The Final Decision may be appealed to NERC pursuant to section 1.6.3.

1.10. PROTECTIVE ORDERS

- a) At any time during a proceeding, on the Hearing Officer's or the Hearing Panel's own motion or on the motion of any Party, an order may be entered to designate as proprietary and protect the confidential, proprietary or trade secret nature of any data, information or studies, or any other information the public release of which may cause a security risk or harm to a Party.
- b) The following types of information will be considered entitled to protection through a Protective Order: (i) confidential business and market information, including information that is proprietary, commercially valuable, or competitively sensitive; (ii) critical energy infrastructure information, for which *NERC Security Guidelines for the Electricity Sector - Protecting Potentially Sensitive Information* may be used as a guide; (iii) information related to a Cybersecurity Incident; (iv) personnel information that identifies or could be used to identify a specific individual, or that reveals personnel, financial, medical or other

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personal information; (v) audit work papers; or (vi) investigative files that would disclose investigative techniques.

- c) A Party submitting a motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, information or studies, if any, and shall propose requirements or safeguards to be met for individuals participating in the proceeding to review the protected information.
- d) A document submitted and marked as proprietary, or a statement made at a hearing and identified as proprietary, shall be afforded proprietary treatment pending the timely submission of a motion to protect the confidential, proprietary or trade secret nature of that document or statement and a ruling on such a motion by the Hearing Officer or Hearing Panel.
- e) The protective order shall identify the data, information or studies that will be accorded proprietary treatment; the individuals participating in the proceeding, by category or otherwise, entitled to view the proprietary information; and the requirements, conditions or safeguards that must be met before an individual may view the information. The order shall also specify any required indications of confidentiality, such as colored paper or notation.
- f) A public redacted version of each document and transcript that contains information that is protected pursuant to this Paragraph must be filed with the proprietary version and must be served on each Party for distribution to those individuals participating in the proceeding who are not entitled to view the proprietary information.
- g) Should it be necessary to address proprietary information during a hearing, the Hearing Officer or Hearing Panel shall exclude from the hearing all individuals other than those entitled to access to the proprietary information in accordance with the protective order.