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COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM RULE

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1.0 INTRODUCTION

This Compliance Monitoring and Enforcement Program (CMEP) Rule (ER2) will be used by the Railbelt Reliability Council (RRC), certificated as the electric reliability organization (ERO) with authority for the Interconnected Electric Energy Transmission Network within the Railbelt region of Alaska, to monitor, assess, and enforce compliance with Reliability Standards. This CMEP Rule was developed to meet the requirements established by Alaska Statute (AS) 42.05.760 -790 and the Regulatory Commission of Alaska (RCA) 3 Alaska Administrative Code (AAC) Part 7, Chapter 46 for the establishment of an ERO. In particular:

- AS 42.05.762(3)(C) requires the ERO to establish rules providing fair and impartial procedures for enforcement of Reliability Standards;
- 3 AAC 460(a)(2) requires the ERO to establish procedures for ensuring that the CMEP does not grant any person an unreasonable preference or advantage or subject any person to an unreasonable prejudice or disadvantage;
- 3 AAC 46.460(a)(3) requires the ERO to establish a procedure for ensuring that enforcement investigations, including penalty recommendations, undertaken by the ERO cannot be carried out by persons employed by, either directly or by contractual arrangement, or affiliated with the person under investigation; and
- 3 AAC 46.460(a)(4)(J) requires the ERO to establish a process for providing public notice and an opportunity for public comment on each proposed enforcement action.

1.1 Document Organization

This CMEP Rule is organized as follows:

- Section 1.0 describes the RRC's authority to collect information and the management of confidential information.
- Section 2.0 explains the Entity Registration Program, including the RRC Compliance Registry Process.
- Section 3.0 discusses the following compliance monitoring processes: Compliance Audits, Self-Certifications, Compliance Investigations, Self-Reports, and Preliminary Screens.
- Section 4.0 details enforcement actions used by RRC, including notices, responses, and enforcement.
- Section 5.0 explains the use and content of Mitigation Plans.
- Section 6.0 lists Remedial Action Directives (RADs).
- Section 7.0 clarifies reporting and disclosure procedures.
- Section 8.0 is a list of references used in this report.

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- Appendix A provides definitions of key terms used in this CMEP Rule.
- Appendix B is a list of acronyms and abbreviations used in this CMEP Rule.

1.2 Definitions

Definitions specific to this document are included in Appendix A. Acronyms and abbreviations are defined in Appendix B.

1.3 Authority to Collect Information

The RRC has the authority to collect and retain documents, data, and information in the manner it deems most appropriate and that is applicable to the investigation of a specific occurrence or Reliability Standard to which the Registered Entity¹ is subject. This authority includes requiring that copies of documents, data, and information be made available to the RRC requesting staff for removal from the Registered Entity's location. Removal of documents, data and information will be in accordance with appropriate security procedures and other safeguards as required to maintain the confidential status of the documents, data, and information. The RRC Documents Retention and Access Rule (ER3) and Confidential Documents and Access Rule (ER4) apply.

The RRC and Registered Entities engaged in the processes described in this document should consult with each other on the documents, data, and information that would be appropriate for effectively addressing process requirements. If a Registered Entity believes that a request for documents, data, or information is unreasonable, the Registered Entity may, in writing, contest the request with the requesting RRC staff. Any disputes unable to be resolved with the requesting staff may be submitted to the Board or its designee for a determination.

Any documents, data, and information required by the RRC must, when delivered to the RRC, include a cover letter that is signed by an officer, employee, attorney, or other authorized representative of the Registered Entity. Electronic signatures are permitted in accordance with processes established by the RRC. The RRC may require the signer to provide a statement of the basis of their authority to sign on behalf of the Registered Entity.

¹ Defined as a User, Owner, or Operator registered with the ERO and subject to Reliability Standards approved by the RRC and the RCA. Appendix A contains definitions for terms used in this document.

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1.4 Confidential Information

1.4.1 Protected Information

The RRC may classify and protect from disclosure certain documents, including those involving critical energy infrastructure information and cybersecurity incident information, as confidential under the Confidential Documents and Access Rule (ER4).

1.4.2 Confidential Information Treatment

The RRC will treat all Possible Violations and Alleged Violations of Reliability Standards and matters related to a CMEP process, including for example the status of any Compliance Investigation or other CMEP process, as confidential in accordance with this rule and the Confidential Documents and Access Rule (ER4).

1.4.3 Identification of Confidential Information

Confidential information shall be submitted to the RRC pursuant to the Confidential Documents and Access Rule (ER4). The entity submitting information to the RRC is responsible for identifying and requesting confidential classification of any confidential information.

1.4.4 Provision of Information to the Regulatory Commission of Alaska

Information will be provided to the RCA in accordance with the requirements set forth in this document.

2.0 ENTITY REGISTRATION PROGRAM

To identify entities responsible for complying with RCA-approved Reliability Standards, the RRC has established an Entity Registration Program (ERP). Entities that are registered shall be included on the [RRC Compliance Registry]² and are responsible for knowing the content of and complying with all applicable Reliability Standards.

2.1 Entity Registration

All entities in the Railbelt region of Alaska that are currently, or expecting to be operational as, a Registered Entity as defined in the [RRC Compliance Registry Criteria] must register with the RRC and comply with applicable Reliability Standards.

² Items in brackets are planned and the name may change.

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In the event an entity that satisfies the criteria for a Registered Entity fails to register with the RRC after receiving notification of the requirement to register, the RRC may include the entity on its Compliance Registry in accordance with the process described in Section 2.2 – Compliance Registry Registration Process of this CMEP Rule.

The RRC shall ensure through its Compliance Registry that (1) no Interconnected Bulk-Electric System (BES) areas are lacking any entities to perform the duties and tasks identified in and required by the Reliability Standards to the fullest extent practical, and (2) there is no unnecessary duplication of such coverage or of required oversight of such coverage.

2.2 Compliance Registry Registration Process

The RRC shall use the following rules for establishing and maintaining the Compliance Registry based on the [RRC Compliance Registry Criteria] established by the RRC and posted on the RRC website:

- **Notification:** The RRC shall notify each entity that it has been included on the [RRC Compliance Registry] and as such is a Registered Entity. Each Registered Entity is responsible for compliance with all the Reliability Standards applicable to the functions for which it is registered from the time it receives the registration notification from the RRC.
 - Any entity placed on the Compliance Registry by the RRC may challenge placement and request deactivation as provided for in Section 2.4 – Registration Review Process Challenges of this CMEP Rule. Any entity may also challenge whether the function for which it is registered is one that the entity is, or is capable of, performing.
 - The RRC shall also notify each entity that has been removed from the Compliance Registry or if the entity is no longer responsible for a function.
- **Changes:** Each Registered Entity shall inform the RRC promptly, but no less than five (5) business days before such changes take effect, of changes or planned changes to the Registered Entity's registration information.
- **Website:** The RRC shall maintain on its website the Compliance Registry of entities responsible for meeting the requirements of the Reliability Standards currently in effect and shall update the Compliance Registry as changes occur.
- **Contact Information:** The RRC 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. A Registered Entity shall also provide their chief executive officer's (CEO's) (or equivalent's) contact information to the RRC. The RRC will designate the receiving staff and where Registered Entities are to send information, data, Mitigation Plans, or any other compliance-related correspondence.

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2.3 Load-serving Entity Responsibility

Load-serving Entities (LSEs) will notify the RRC in writing as required by the RRC's tariff of all potential Registered Entities that may be subject to (1) an RCA-approved Reliability Standard, or (2) a Reliability Standard that the RRC may develop in the reasonably foreseeable future provided for in Section 2.2 – Compliance Registry Registration Process as described under “Contact Information.” The RRC will determine whether a potential Registered Entity meets the [RRC Compliance Registry Criteria].

2.4 Registration Review Process and Challenges

The RRC will establish a Registration Review Process (RRP) to evaluate the following: (1) Registered Entity requests for deactivation (i.e., removal from the Compliance Registry) or decisions by entities not to register when the RRC has determined they should, (2) requests to add an entity that does not meet the RRC Registry Criteria, and (3) disputes regarding the application of the [RRC Compliance Registry Criteria]. Challenges to inclusion or deactivation from the [RRC Compliance Registry] shall follow the process described below:

1. The requesting challenging entity will submit a written request to the RRC's designated person as provided in Section 2.2 – Compliance Registry Registration Process for a formal review of its registration. The entity should include its reasoning for the request for inclusion to or deactivation from to the Compliance Registry based on the [RRC Compliance Registry Criteria]. The burden of proof is on the entity that makes the request for the review.
2. The RRC will review the submitted documentation and determine whether the request is valid or invalid within thirty (30) days of receipt.
3. If the request is deemed invalid, the RRC will send a written notice to the entity and other affected parties.
4. If the request is deemed valid, the RRC will send a written notice of the RRC's acceptance of the valid request to the entity and other affected parties. The entity will continue to be expected to comply with Reliability Standards (if applicable) until the challenge has a final determination.
5. The standard of proof in any proceeding under the RRP shall be a preponderance of the evidence. The RRC will evaluate all documentation, assessments, and responses submitted to determine whether the weight of the evidence supports the registration action under review more than it does not support the action. The RRC may issue a request for information to the entity or any other parties and will copy all parties on any such correspondence. The RRC will render its decision within sixty (60) days of receipt of all relevant information related to the request from any party.

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6. The RRC may use its discretion to extend the timelines of the review process for good cause. Any party may also request to extend the timelines by sending a request for extension. The RRC shall notify all parties of such time extensions.
7. The RRC decision will be issued to the entity with a copy to all parties, and the Compliance Registry will be updated as required. The RRC will post a challenge and the decision on its website.

3.0 COMPLIANCE MONITORING PROCESSES

The RRC will monitor Registered Entities' compliance with Reliability Standards using the compliance monitoring processes described in this section and consistent with the [RRC Compliance Monitoring and Enforcement Manual].

If the compliance monitoring processes described in this section reveal potential noncompliance with a Reliability Standard, the RRC will conduct a Preliminary Screen of the potential noncompliance in accordance with Section 3.7 – Preliminary Screens. If the Preliminary Screen results in an affirmative determination with respect to the Preliminary Screen criteria, the RRC will proceed in accordance with Section 4.0, except as otherwise authorized in this CMEP Rule.

Registered Entities found in violation of a Reliability Standard will be required to mitigate the violation regardless of any enforcement actions taken.

3.1 Data and Information

Timely information, reports, and data from Registered Entities are required for the RRC to effectively monitor compliance with Reliability Standards. The RRC has the authority to collect all information it deems necessary on a timely basis in accordance with Section 1.3 – Authority to Collect Information.

3.2 Compliance Audits

All Registered Entities are subject to audit for compliance with those Reliability Standards applicable to the functions for which the Registered Entity is registered. Compliance Audits are conducted on-site at the Registered Entity's main office, off-site through tabletop audits, or a combination of on-site and off-site processes as determined by the RRC. Compliance Audits, whether scheduled or unscheduled (i.e., "spot checks"), are a process to determine compliance with certain Reliability Standards and to identify potential best practices. Compliance Audits are not conducted as the result of a system event.

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3.2.1 Compliance Audit Process Steps

The process steps for a Compliance Audit are as follows:

- **Notification:** If the RRC identifies a need to conduct scheduled Compliance Audits, the RRC will post an Audit Plan on the RRC website by October 1 of the year preceding the first audit (as described in Section 3.2.3 – Compliance Audit Plan and Schedule).
 - The RRC will also provide additional information to those Registered Entities identified for scheduled Compliance Audits, including Compliance Audit materials, typical agendas for an audit, and any changes to the posted schedule.
 - At least ninety (90) days prior to commencement of a scheduled Compliance Audit, the RRC will notify the Registered Entity of (1) the Compliance Audit and the Reliability Standards to be evaluated; (2) the Compliance Audit Team member(s), including employment history; and (3) requested data, including an RRC pre-Compliance Audit questionnaire to be completed by the Registered Entity.
 - A Registered Entity may object to a Compliance Audit Team member as provided for in Section 3.2.2 – Registered Entity Objections to Compliance Audit Team Members.
 - If the Compliance Audit Team members change from the time of the original notification, the RRC will promptly notify the Registered Entity of the change and will allow time for the Registered Entity to object to the new Compliance Audit Team member(s) as provided for in Section 3.2.2.
- **Information Submittal:** The Registered Entity will provide all required information to the RRC in the format and by the required date specified in the request.
- **Review:** The Compliance Audit Team will review the submitted information for conformance with the noticed Reliability Standards.
- **Compliance:** The Compliance Audit Team will notify the Registered Entity if it finds the entity is in compliance with the noticed Reliability Standard and that no further review will be conducted on-site. Additionally, the Compliance Audit Team will conduct an exit briefing with the Registered Entity, provide for a review of the draft Compliance Audit Report with the Registered Entity before it is finalized (per Section 3.2.6.1 – Draft Report), and complete a final Compliance Audit Report in accordance with Section 3.2.6.2 – Final Report.
- **Noncompliance:** If the Compliance Audit Team identifies evidence of potential noncompliance with a Reliability Standard by the Registered Entity, the RRC will conduct a Preliminary Screen of the potential noncompliance in accordance with Section 3.7 – Preliminary Screens.

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3.2.2 Registered Entity Objections to Compliance Audit Team Members

A Registered Entity subject to a Compliance Audit may object to any member of the Compliance 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 their duties. Any such objections must be provided in writing to the RRC no later than sixty (60) days prior to the start of Compliance Audit work.

This sixty (60)-day requirement shall not apply where a Compliance Audit Team member has been appointed less than twenty (20) days prior to the start of on-site Compliance Audit work or after Compliance Audit has commenced. In that circumstance, the Registered Entity must provide any objections to the RRC within five (5) business days after receiving notice of the appointment of the Compliance Audit Team member.

In the case of an unscheduled Compliance Audit pursuant to Section 3.2.3.2 – Unscheduled Audits, the Registered Entity must provide any objections to the RRC at least five (5) business days prior to the start of on-site Compliance Audit work for the unscheduled Compliance Audit.

The RRC will make a final determination on whether the Compliance Audit Team member will participate in the Compliance Audit. Nothing in Section 3.2 – Compliance Audits shall be interpreted to limit the participation of RRC staff in the Compliance Audit. Additionally, nothing in Section 3.2 shall be interpreted to limit the participation of RCA staff in a Compliance Audit of either a Registered Entity or a portion of the BES over which the RCA has jurisdiction.

3.2.3 Compliance Audit Plan and Schedule

If the RRC identifies a need to conduct scheduled Compliance Audits, the RRC will develop an Audit Plan and post the plan on the RRC website by October 1 of the year preceding the year covered in the plan. The RRC shall notify Registered Entities subject to Compliance Audits during the upcoming year of the Compliance Audit schedule. The RRC will give due consideration to any reasonable schedule changes requested by Registered Entities. Revisions and additions to the Audit Plan shall be communicated to the Registered Entity in a timely manner.

3.2.3.1 Compliance Audit Frequency

The RRC may perform scheduled Compliance Audits as prescribed in the [RRC Risk-based Compliance Criteria].

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3.2.3.2 Unscheduled Audits

In addition to scheduled Compliance Audits, the RRC may initiate an unscheduled Compliance Audit of any Registered Entity at any time if the RRC reasonably determines it necessary to ensure the Registered Entity's compliance with Reliability Standards on its own or at the direction of the RCA. The RRC shall provide at least ten (10) business days' advance notice to the Registered Entity that an unscheduled Compliance Audit is being initiated. The advance notice shall include identification of the members of the Compliance Audit Team.

3.2.4 Compliance Audit Scope

3.2.4.1 Reliability Standards Included

A Compliance Audit shall include those Reliability Standards applicable to the Registered Entity that are determined by the RRC as material to the audit based on risks to the BES, past performance, emerging issues, and other factors the RRC deems appropriate.

3.2.4.2 Period Covered by Audit

The Registered Entity's data and information must show compliance with the Reliability Standards that are the subject of the Compliance Audit for the entire period covered by the Compliance Audit (the "audit period"). The RRC will indicate the beginning and end dates of the audit period in its *Notice of Compliance Audit*. The audit period begins either the day after the end date of the prior Compliance Audit by the RRC, a date selected by the RRC, or the date the Registered Entity became subject to the applicable Reliability Standards if the Registered Entity has not previously been subject to a Compliance Audit. The audit period will not begin prior to the end date of the previous Compliance Audit. The RRC may modify the beginning date of the audit period for any given Reliability Standard requirement based on an intervening compliance monitoring process. The end of the audit period should be a specified date prior to the scheduled start of the Compliance Audit.

The Registered Entity will be expected to demonstrate compliance for the entire audit period. If a Reliability Standard specifies a document retention period that does not cover the entire audit period, the Registered Entity will not be found in noncompliance solely on the basis of its failure to retain applicable documents outside of the retention period specified in the Reliability Standard. However, in such cases, the RRC will require the Registered Entity to demonstrate compliance through other means. In addition, if the Compliance Audit Team discovers potential noncompliance occurring after the end of the audit period, the potential noncompliance will be subject to a Preliminary Screen pursuant to Section 3.7 – Preliminary Screens.

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3.2.4.3 Mitigating Activities Review

The Compliance Audit may include a review of any mitigating activities that the Registered Entity has not yet completed for previously identified issues of noncompliance. The purpose of the review is to determine whether the Registered Entity is making adequate progress toward completion of the mitigating activities. No additional noncompliance will be assessed if the Registered Entity is completing the Mitigating Activities per the RRC-approved Mitigation Plan described in Section 5.0 – Mitigations of Violations of Reliability Standards.

3.2.5 Compliance Audit Team Member and Observer Conduct

3.2.5.1 Compliance Audit Team Composition

The Compliance Audit Team shall be comprised of the RRC staff, contractors and industry subject matter experts (SMEs) that have been determined to possess the requisite knowledge, training, and skills to conduct the Compliance Audit consistent with the [RRC Compliance Monitoring and Enforcement Manual]. The chair of the Audit Team (“Audit Team Leader”) shall be an RRC staff member and is responsible for the conduct of the Compliance Audit Team and preparation of the Compliance Audit Report.

3.2.5.2 Compliance Audit Team Member Requirements

Each Compliance Audit Team member must:

- Be free of conflicts of interests in accordance with RRC policies. Employees, immediate family members, or contractors of the Registered Entity being audited, or any of its affiliates or competitors, shall not be allowed to participate as auditors in the Compliance Audit of the Registered Entity.
- Comply with the [RRC Antitrust Compliance Guidelines] and have signed either (1) an appropriate confidentiality agreement, or (2) an acknowledgment that the confidentiality agreement signed by the RRC is applicable.
- Successfully complete all RRC auditor training applicable to the Compliance Audit.

Prior to the Compliance Audit, the RRC shall provide confirmation to the Registered Entity that all Compliance Audit Team members have executed confidentiality agreements or acknowledgements.

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3.2.5.3 Compliance Audit Participants and Authorized Observers

In any Compliance Audit of a Registered Entity, the Registered Entity being audited and SMEs representing the Registered Entity are Compliance Audit Participants as approved by the Audit Team Leader.

In addition to Compliance Audit Participants, the Audit Team Leader may approve RRC staff, RRC contractors, RRC SMEs and/or other Registered Entities as authorized observers to the Compliance Audit.

At the request of the Registered Entity being audited, the RRC may allow attendance at the Compliance Audit by:

- Representatives of corporate affiliates of the Registered Entity being audited providing those affiliates are either Registered Entities or provide compliance services, support, or oversight to the Registered Entity being audited, and
- Representatives of Registered Entities whose compliance activities are conducted by the Registered Entity being audited or by the same corporate entity that conducts the compliance activities of the Registered Entity being audited.

Each such additional attendee must execute a confidentiality agreement approved by the RRC and will participate as an observer and not a SME, unless previously designated as such by the Registered Entity.

Compliance Audit observers and attendees are not Compliance Audit Team members and do not participate in conducting the Compliance Audit or in making Compliance Audit findings and determinations.

The Audit Team Leader will communicate in advance with any authorized observers to ensure there are no undue disruptions to the Compliance Audit, such as space limitations, conflicts of interest, and other considerations that in the judgment of the Audit Team Leader may be detrimental to the conduct and quality of the Compliance Audit. If the Audit Team Leader identifies any such issues, they shall work with the authorized observers to facilitate observation in a less disruptive manner; or, alternatively, RRC compliance staff will work with the authorized observers to schedule their observation of a different Compliance Audit in which such issues are not presented.

3.2.6 Compliance Audit Reports

3.2.6.1 Draft Report

The Compliance Audit Team will develop a draft Compliance Audit Report that will include the following:

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- A description of the objective, scope, and methodology of the Compliance Audit;
- Confirmation that no conflicts of interest exist for Compliance Audit Team members;
- Identification of any evidence of potential noncompliance with Reliability Standards by the Registered Entity found by the Compliance Audit Team;
- Identification of any RADs, Mitigation Plans, or other Mitigating Activities that have been completed or are pending in the year of the Compliance Audit; and
- A statement of whether any confidential information has been redacted.

The report may also state areas of concern and recommendations identified by the Compliance Audit Team.

The draft report will be provided to the Registered Entity for response to the findings. The Registered Entity shall respond, including acceptance or dispute of the findings contained in the report, in writing, to the Compliance Audit Team within thirty (30) days.

3.2.6.2 Final Report

After receiving the response back to the draft report from the Registered Entity, the Compliance Audit Team will consider any corrections based on comments by the Registered Entity. The Compliance Audit Team will then finalize the Compliance Audit Report and provide the Registered Entity with a copy of the final report on or before the date that the final report is provided to the RRC.

The final Compliance Audit Report shall include a statement of whether the Registered Entity that was the subject of the audit has accepted the result of the audit or disputes the result.

The RRC will provide a copy of any final report that found violations to the RCA, along with the audited entity's response to the findings. The provision of the final Compliance Audit Report to the RCA shall be in accordance with Section 7.0 – Documents, Reporting, and Disclosure.

Work papers and other documentation associated with the Compliance Audit will be maintained by the RRC in accordance with the Documents Retention and Access Rule (ER3). The RRC will publicly post on its website the final Compliance Audit Report no earlier than five (5) business days but no later than thirty (30) days after the audited entity receives the final Compliance Audit Report from the Compliance Audit Team.

If the final Compliance Audit Report identifies possible violations of one or more Reliability Standards, the final Compliance Audit Report, or pertinent part thereof identifying the possible violations, shall not be released to the public by the RRC until (1) the possible violation is dismissed prior to becoming a

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confirmed violation, (2) the RRC submits a *Notice of Penalty* to the RCA, or (3) the Registered Entity executes a settlement agreement with the RRC pursuant to Section 4.5 – Settlement Process.

Information deemed confidential by the RRC pursuant to Section 1.4 – Confidential Information or the Confidential Documents and Access Rule (ER4) will be redacted from any public reports.

3.3 Self-Certifications

The RRC may require Registered Entities to self-certify their compliance with certain Reliability Standards pursuant to the process defined in this Section 3.3 – Self-Certifications.

3.3.1 Self-Certification Process Steps

The process for the self-certification process is described below:

- The RRC will update, post to its website, and inform Registered Entities of the standards requiring self-certification and the reporting schedule containing the applicable reporting periods. The RRC will ensure that the appropriate Reliability Standards, compliance procedures, and required submittal forms for the Reliability Standards being evaluated are maintained and available.
 - For any Reliability Standards added or removed from those required for self-reporting by the RRC, the RRC will update the reporting schedule, applicable reporting periods, and required submittal forms.
 - The RRC will request that the Registered Entity conduct 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 provided to the RRC within thirty (30) days.
- The Registered Entity will provide the required information to the RRC in the form and manner, and by the required date, specified by the RRC. The self-certification response may state that (1) the Registered Entity is in compliance with the Reliability Standard, (2) the Registered Entity is not in compliance with the Reliability Standard, (3) the Registered Entity does not own facilities that are subject to the Reliability Standard, or (4) the Reliability Standard is not applicable to the Registered Entity.
- At a minimum, the RRC will review Self-Certifications of noncompliance and Self-Certifications in which the Registered Entity has responded that it does not own facilities that are subject to the Reliability Standard or is not subject to the Reliability Standard. The RRC may request additional information as necessary.

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- If the RRC staff review of the self-certification indicates potential noncompliance with a Reliability Standard by the Registered Entity, the RRC will conduct a Preliminary Screen of the potential noncompliance in accordance with Section 3.7 – Preliminary Screens. Receipt of a self-certification by the RRC staff shall not be construed as a finding by the RRC that the Registered Entity is compliant with, not compliant with, subject to, or not subject to, the Reliability Standard.

3.4 Compliance Investigations

Compliance Investigations can be initiated by the RRC or the RCA, as described below:

- **RRC Initiation:** A Compliance Investigation may be initiated at any time by the RRC in response to a system disturbance, Complaint, or any potential noncompliance with a Reliability Standard identified by any other means. Compliance investigations will be led by RRC staff. The RRC will also initiate a Compliance Investigation if directed by the RCA.
 - **Public vs. Confidential:** Compliance Investigations are confidential as provided for in Section 1.4 – Confidential Information and applicable RRC policies and rules, unless the RCA directs that a Compliance Investigation should be public or that certain information obtained in the Compliance Investigation should be publicly disclosed.
 - **Public Notice:** The RRC may provide public notice that a Compliance Investigation has been initiated. This notice will be posted to the RRC website and need not provide opportunity for public comment. If violations are identified, they will be processed in accordance with Section 4.0 – Enforcement Actions.
- **RCA Initiation:** The RCA may initiate its own investigation. Investigations initiated by the RCA are conducted by the RCA and not subject to RRC jurisdiction.

3.4.1 Compliance Investigation Process Steps

The RRC Compliance Investigation Process is as described below:

- **Notice of Compliance Investigation:** After the RRC becomes aware of circumstances indicating a Reliability Standard may have been or is being violated, the RRC will determine whether a Compliance Investigation is warranted. Within three (3) business days of the decision to initiate a Compliance Investigation, the RRC will (1) issue a Notice of Compliance Investigation to the Registered Entity that provides notice of initiation and the initial scope of the Compliance Investigation, and (2) instruct the Registered Entity to preserve all records and information relevant to the Compliance Investigation. The Compliance Investigation may be expanded

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beyond the initial scope based on information obtained by the RRC after initiation of the Compliance Investigation.

- **Compliance Investigation Team:** The RRC will request data or documentation and provide a list of individuals on the Compliance Investigation Team that includes each member’s employment history. Within ten (10) business days of receiving the Notice of a Compliance Investigation, a Registered Entity subject to a Compliance Investigation may object to any individual member of the Compliance 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 their duties; however, the Registered Entity may not object to participation by RRC staff. Such objections must be provided in writing to the RRC within the ten (10) business day period. The RRC will make a final determination as to whether the individual will participate in the Compliance Investigation of the Registered Entity.
- **Registered Entity Response:** The Registered Entity shall provide the required information to the RRC in the format and by the required date specified in the request. If information is not received in the time and format requested, the RRC may initiate the steps in the [RRC Process for Non-Submittal of Requested Data].
- **On-Site Visit:** If necessary, a Compliance Investigation may include an on-site visit to interview appropriate personnel and review relevant data as determined by the RRC.
- **Requirements:** The RRC may require the Registered Entity to do any of the following:
 - Provide an affidavit signed 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 RRC’s requests for information; or
 - Produce one or more officers, employees, or other authorized representatives of the Registered Entity who are familiar with the matter(s) that are the subject of the Compliance Investigation, to be interviewed concerning such matters. All interviews shall be recorded, and counsel may be present when an interview is conducted. The RRC shall determine whether additional representatives of the Registered Entity will be allowed to be present when an interview is taking place
- **Review:** The RRC will review information to determine compliance with the Reliability Standards. The RRC may request additional data and/or information, if necessary.
- **Completion and Report:** The RRC will complete the assessment of compliance with the Reliability Standard, which may include review of a Mitigation Plan or Mitigating Activities, and will provide a report of the Compliance Investigation to the Registered Entity.
- **Preliminary Screen:** If at any time during the Compliance Investigation the RRC identifies potential noncompliance with a Reliability Standard requirement by a Registered Entity, the RRC shall

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conduct a Preliminary Screen of the potential noncompliance in accordance with Section 3.7 – Preliminary Screens.

- **Notice of No Violation:** If the RRC determines that no violation occurred, it will send the Registered Entity a notice that the Compliance Investigation has been completed and that no violation was found. The RRC will also notify the RCA of its findings. Any such notice to the RCA will be provided in accordance with Section 7.0 – Documents, Reporting, and Disclosure.

3.5 Self-Reports

Self-Reports are encouraged at the time a Registered Entity becomes aware that (1) it has, or may have, violated a Reliability Standard, or (2) the violation severity level (VSL) of a previously reported violation has changed. Self-Reports of a violation of a Reliability Standard are required as part of the Find, Fix, Track, and Report (FFTR) process described in Section 3.5.2 – FFTR Process for minimal or moderate risk Reliability Standard violations. A Self-Report should describe any actions that have been taken or will be taken to resolve the violation.

3.5.1 Self-Report Process

The process for Self-Reports is as follows:

- The Registered Entity will complete and submit an [RRC Self-Report Submittal Form], which will be available on the RRC website, to the RRC.
- The RRC will review the information in the [RRC Self-Report Submittal Form] to evaluate compliance with the Reliability Standards and may request that the Registered Entity provide clarification or additional information.
- The RRC will conduct a Preliminary Screen of the Self-Report information in accordance with Section 3.7 – Preliminary Screens.

3.5.2 Find, Fix, Track, and Report Process

The Find, Fix, Track, and Report (FFTR) process may be used to address noncompliance by a Registered Entity posing a minimal or moderate risk to the reliability of the BES without resulting in a *Notice of Penalty*, formal Mitigation Plan, or other enforcement action. The FFTR process is as follows:

- The Registered Entity shall promptly mitigate the noncompliance;
- The Registered Entity shall submit the [RRC FFTR Report Form], which will be available on the RRC website at www.akrrc.org, to the RRC that contains the facts and circumstances of the noncompliance, including those facts that support the determination of the level of risk and the mitigation actions taken, and the RRC will determine whether the violation warrants initiation of another compliance monitoring or enforcement process contained herein; and

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- FFTRs must be approved by the CEO or their designee. Approved FFTRs must be submitted to the Board for informational purposes.

FFTRs will be tracked and analyzed by the RRC to identify emerging risks and other pertinent trends.

3.6 Complaints

The RRC may receive Complaints alleging violations of a Reliability Standard. The RRC will conduct a review of each Complaint it receives to determine whether the Complaint provides a sufficient basis for initiating a compliance monitoring or enforcement process.

The RRC will determine if the Complaint may be closed as a result of the initial review and assessment or if it provides sufficient basis for initiating a compliance monitoring or enforcement process. If, as a result of the initial review of the Complaint, the RRC determines that initiating a compliance monitoring or enforcement process is warranted, the RRC shall conduct that compliance monitoring or enforcement process in accordance with the applicable provisions of Section 3.0 – Compliance Monitoring Processes.

3.6.1 Complaint Process Steps

The complaint process is as follows:

- The complainant will notify the RRC by submitting the [RRC Complaint Reporting Form], or by other means provided by the RRC. The RRC shall post a link to the [RRC Complaint Reporting Form] on its website. The Complaint shall include sufficient information to enable the RRC to make an assessment regarding whether the initiation of a compliance monitoring or enforcement process is warranted. The RRC may engage in limited informal investigation of the complaint to determine if the complaint warrants initiation of a CMEP action. The RRC will not act on a Complaint if the Complaint is incomplete or does not include sufficient information.
- If the RRC determines that initiation of a compliance monitoring or enforcement process is warranted, the RRC will initiate the compliance monitoring or enforcement process in accordance with the applicable provisions of Section 3.0 – Compliance Monitoring Processes or Section 5.0 – Mitigation of Violations of Reliability Standards; otherwise, it will take no further action. The RRC will notify the complainant and the Registered Entity of the initiation of the compliance monitoring or enforcement process.
- If the RRC determines that initiation of a compliance monitoring or enforcement process is not warranted, it will notify the complainant and the Registered Entity that no further action will be taken.
- The RRC will fully document the Complaint and the complaint review, and will determine whether another compliance monitoring or enforcement process is warranted.

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3.6.2 Anonymous Complainant Notification Process

A complainant who believes, or has information indicating that there has been, a violation of a Reliability Standard and wishes to remain anonymous can report the information on the [RRC Complaint Reporting Form], which includes a request option that the complainant’s identity not be disclosed. All Complaints lodged by a person or entity requesting that the complainant’s identity not be disclosed shall be investigated by the RRC following the process described in Section 3.6.1 – Complaint Process Steps. The RRC shall not disclose the identity of a person or entity that requested to remain anonymous. The identity of the complainant will only be provided on a need-to-know basis. If the RRC determines that initiation of another compliance monitoring and enforcement process is not warranted, it will notify the complainant and the Registered Entity that no further action will be taken.

3.7 Preliminary Screens

If the RRC obtains information through one of the compliance monitoring processes described in this Section 3.0 – Compliance Monitoring Processes, or by any other means, that indicates potential noncompliance with a Reliability Standard, the RRC shall conduct a Preliminary Screen of the potential noncompliance.

3.7.1 Timeline

The Preliminary Screen shall be conducted within five (5) business days after the RRC identifies the potential noncompliance. Exceptions are:

- If the RRC identifies the potential noncompliance during a Compliance Audit, the Preliminary Screen shall be conducted by others not associated with the Compliance Audit Team immediately following the Compliance Audit exit briefing of the Registered Entity, and
- If the RRC identifies the potential noncompliance during a Compliance Investigation, the Preliminary Screen shall be conducted immediately after the Registered Entity is first notified of the potential noncompliance identified by the Compliance Investigation.

3.7.2 Limitations

A Preliminary Screen shall be limited to determining whether:

- The entity allegedly involved in the potential noncompliance is a Registered Entity;
- The Reliability Standard to which the evidence of potential noncompliance relates is applicable to the entity, has been approved by the RCA, and is in effect at the time of the potential noncompliance; and

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- If known, the potential noncompliance is not a duplicate of a Possible Violation or Alleged Violation that is currently being processed.

If the Preliminary Screen results in an affirmative determination with respect to the above criteria, the RRC shall proceed in accordance with Section 4.0 – Enforcement Actions, unless the FFTR process is used in accordance with Section 3.5.2 – FFTR Process.

The RRC shall maintain records of all Preliminary Screens.

4.0 ENFORCEMENT ACTIONS

Enforcement actions will be taken by the RRC for all violations except those addressed through the FFTR process described in Section 3.5.2 – FFTR Process. Enforcement action recommendations are developed by the Technical Advisory Council’s (TAC) Compliance Engineer in consultation with other TAC Engineers. Once developed, the recommendation is sent to the CEO to forward to the board for action. The RRC shall determine (1) whether there have been violations of Reliability Standards by Registered Entities, and (2) if so, the appropriate Mitigating Activities and Penalties or sanctions/nonmonetary penalties, as prescribed in the [RRC Sanction Guidelines].

Before an enforcement investigation or action is started, the RRC staff to conduct the enforcement must provide verification to the CEO or their designee that the RRC staff is not employed by, either directly or through contractual arrangement, or affiliated with, or a competitor of, the person or entity under investigation. The CEO or their designee shall certify receipt of the verification and shall enter the verification in the enforcement record. A person affiliated with, a competitor of, or employed by a person or entity under investigation may not conduct an enforcement investigation or action, including making a penalty recommendation, related to that person or entity.

The imposition and acceptance of a Penalty or sanctions/nonmonetary penalties shall not be considered an acceptable alternative to any Registered Entity’s continuing obligation to comply with the Reliability Standards.

The RRC has authority to collect documents, data, and information as described in Section 1.3 – Authority to Collect Information.

The enforcement process described in this Section 4.0 – Enforcement Action will be undertaken by the RRC following identification of a possible violation of a Reliability Standard by a Registered Entity.

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4.1 **Notice of Possible Violation**

If a Preliminary Screen conducted in accordance with Section 3.7 – Preliminary Screens results in an affirmative determination with respect to the Preliminary Screen criteria, the RRC shall issue a *Notice of Possible Violation* to the Registered Entity. The *Notice of Possible Violation* shall:

- State that a possible violation by the Registered Entity has been identified;
- Provide a brief description of the possible violation, including the applicable Reliability Standard requirement(s) and, if known, the date(s) involved; and
- Instruct the Registered Entity to retain and preserve all data and records relating to the possible violation.

The RRC shall proceed with the investigation of the possible violation in accordance with RRC standards and procedures.

4.2 **Assessment of Possible Violation**

After issuing a *Notice of Possible Violation*, the RRC will conduct an assessment of the facts and circumstances surrounding the possible violation to determine whether evidence exists to support a finding that a Registered Entity has violated the Reliability Standard identified in the *Notice of Possible Violation*, or whether the possible violation should be dismissed. The RRC may consider any additional information to determine whether the possible violation should be dismissed, modified, or resolved through the FFTR process in Section 3.5.2 – FFTR Process.

The Registered Entity may request settlement negotiations at any time pursuant to the Settlement Process in Section 4.6 – Appeal of RRC Penalty Decisions to RCA.

4.3 **Notice of Alleged Violation**

If the RRC determines, based on an assessment of the facts and circumstances surrounding a possible violation, that evidence exists to support a finding that a Registered Entity has violated a Reliability Standard, the RRC shall notify the Registered Entity of the determination of the alleged violation through issuance of a *Notice of Alleged Violation* and proposed Penalty or sanction/nonmonetary penalty or similar notification. The *Notice of Alleged Violation* shall be transmitted by the RRC to the Registered Entity by electronic mail and shall be effective as of the date of the electronic mail message from the RRC transmitting the notification. The proposed penalty or sanction/non-monetary penalty will be publicly noticed for comment. The *Notice of Alleged Violation* shall include, at a minimum:

1. The Reliability Standard(s) that the Registered Entity has allegedly violated;

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2. The date and time the alleged violation occurred or is occurring;
3. The facts the RRC believes demonstrate the alleged violation;
4. The proposed Penalty or sanction/nonmonetary penalty, if any, determined by the RRC to be applicable to the alleged violation in accordance with the [RRC Sanction Guidelines], including an explanation of the basis upon which the particular Penalty or sanction/nonmonetary penalty was determined to be applicable;
5. Notice that the Registered Entity shall, within thirty (30) days, elect one of the following options or the RRC will deem the Registered Entity to have accepted the determination of violation and proposed Penalty or sanction/nonmonetary penalty:
 - Agree with the alleged violation and proposed Penalty or sanction/nonmonetary penalty, agree to provide a response in accordance with Section 4.4 – Registered Entity Response, and agree to submit and implement a Mitigation Plan or complete other mitigating activities to correct the violation and its underlying causes;
 - Agree with the alleged violation, agree to provide a response in accordance with Section 4.4 – Registered Entity Response, and agree to submit and implement a Mitigation Plan or complete other mitigating activities to eliminate the violation and its underlying causes, but contest the proposed Penalty or sanction/nonmonetary penalty; or
 - Contest both the alleged violation and the proposed Penalty or sanction/nonmonetary penalty, and agree to provide a response in accordance with Section 4.4 – Registered Entity Response.
6. Notice that the Registered Entity may elect to submit a Mitigation Plan while contesting the alleged violation and/or the proposed Penalty or sanction/nonmonetary penalty, 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/nonmonetary penalty;
7. If the Registered Entity elects to contest the alleged violation and/or the proposed Penalty or sanction/nonmonetary penalty, the Registered Entity may elect to have a hearing conducted pursuant to the [RRC Compliance Hearing Process]; and
8. Required procedures to submit the Registered Entity's Mitigation Plan.

The RRC shall notify the RCA of the Alleged Violation within five (5) business days of the determination of an Alleged Violation. Any such notice to the RCA shall be provided in accordance with Section 7.0 – Documents, Reporting, and Disclosure.

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4.4 Registered Entity Response

Agrees, Does Not Contest, or No Response: If the Registered Entity agrees with, does not contest, or does not respond to the *Notice of Alleged Violation* within thirty (30) days following the date the Registered Entity was electronically mailed the notice by RRC, it shall be deemed to have accepted the RRC's determination of violation and Penalty or sanction/nonmonetary penalty. The Registered Entity may agree in writing to the RRC to waive a hearing for an alleged violation that includes a proposed Penalty or sanction/nonmonetary penalty, if the Registered Entity agrees with or does not contest the *Notice of Alleged Violation*.

No Response Follow-up: In the case of a nonresponse by the Registered Entity, RRC staff will present to the RRC board or their designee Alleged Violations that include a proposed Penalty or sanction/nonmonetary penalty. The Registered Entity shall be given the opportunity to be present (in person or via electronic means. A record of the hearing will be maintained in accordance with the RRC Hearing Process.

Contests: If the Registered Entity contests the alleged violation or the proposed Penalty or sanction/nonmonetary penalty, the Registered Entity shall submit to the RRC, within thirty (30) days following the date of the *Notice of Alleged Violation*, a response. The response must (1) explain the RE's position, signed by an officer, employee, attorney, or other authorized representative; and (2) include any supporting information and documents. The RRC may grant a hearing for a Registered Entity contesting the *Notice of Alleged Violation* and shall grant a hearing for a Registered Entity contesting a proposed penalty or sanction/nonmonetary penalty: If a hearing is granted:

- The RRC will schedule the hearing within ten (10) business days of receipt of the Registered Entity response,
- The RRC will conduct the hearing in accordance with the [RRC Compliance Hearing Process].
- The RRC Board or their designee will make the final determination on a contested *Notice of Violation* or sanction/nonmonetary sanction.

4.5 Settlement Process

4.5.1 Settlement Negotiations

A Registered Entity can request settlement negotiations at any time, including prior to the issuance of a *Notice of Alleged Violation*; however, the RRC may decline to engage in or to continue settlement negotiations after a possible violation or alleged violation becomes a confirmed violation in accordance with Section 4.4 – Registered Entity Response. The Registered Entity or the RRC may terminate settlement negotiations at any time. Where the RRC has agreed to engage in settlement negotiations,

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the time period specified in Section 4.4 for the Registered Entity to respond to the *Notice of Alleged Violation* will be suspended until settlement negotiations are concluded or terminated. For all settlement discussions, the RRC shall require the Registered Entity to designate an individual(s) authorized to negotiate on its behalf. The RRC may consider all relevant facts in settlement negotiations.

4.5.2 Settlement Agreement

The RRC and the Registered Entity will execute a settlement agreement setting forth the final settlement terms, including all Penalties or sanctions/nonmonetary penalties and mitigation requirements provided for in the final settlement.

A settlement agreement must ensure that the reliability of the BES will not be compromised by the settlement and that a violation of a Reliability Standard will not occur as a result of the settlement. All approved settlement agreements must provide for waiver of the Registered Entity's right to a hearing and further appeal with the RRC.

The RRC will ensure consistency with other settlement agreements entered into for similar violations or under other, similar circumstances. The Registered Entity may submit an explanatory statement, conforming to the requirements of Section 4.4 – Registered Entity Response to be included in the settlement agreement, which shall be subject to consent of the RRC as part of the settlement agreement. The settlement agreement may state that the Registered Entity (1) admits the alleged violation, (2) does not contest the alleged violation, or (3) neither admits nor denies the alleged violation; however, the settlement agreement may not state that the Registered Entity denies the alleged violation.

RRC staff will present settlement agreements to the RRC Board for action. The Registered Entity shall be given the opportunity to be present (in person or via electronic means). A record of the proceedings will be maintained.

4.5.3 Reporting and Posting

The RRC will report the approved settlement of the violation to the RCA. Any such report shall be provided in accordance with Section 7.0 – Documents, Reporting, and Disclosure. The RRC will also post on its website publicly the violation settled (regardless of whether the settlement includes or does not include an admission of a violation) and the resulting Penalty or sanction/nonmonetary penalty provided for in the settlement. This posting shall include a copy of the settlement or a description of the terms of the settlement, and a copy of any Mitigation Plan that is agreed to as part of the settlement, with classified information redacted. The RRC will issue and post on the RRC website a letter setting forth the final settlement terms, including all Penalties or sanctions/nonmonetary penalties and mitigation

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requirements provided for in the final settlement. The letter describing the settlement shall be posted on the RRC website for public review and comment pursuant to Section 7.0 – Documents, Reporting, and Disclosure and will be subject to redacting confidential information as necessary.

4.6 Appeal of RRC Penalty Decisions to RCA

A Registered Entity may appeal a penalty decision of the RRC to the RCA in accordance with 3 AAC 46.140 and other applicable RCA regulations.

4.7 Notice of Confirmed Violation

A *Notice of Confirmed Violation* issued to a Registered Entity pursuant to Section 4.3 – *Notice of Alleged Violation* or Section 4.4 – *Registered Entity Response* shall include a detailed record of the enforcement action, including the facts and circumstances analyzed and the information upon which the RRC relied in proposing a Penalty or sanction/nonmonetary penalty.

The RRC's *Notice of Confirmed Violation* will also include a *Notice of Penalty* developed in accordance with the [RRC Sanction Guidelines].

4.7.1 Public Notice & Comment - Violations Resulting in Notice of Confirmed Violation

Upon completion of the Alleged Violation process by acceptance, hearing, or settlement, and approval of the RRC, the RRC shall develop a *Notice of Confirmed Violation*.

The *Notice of Confirmed Violation*, including any proposed enforcement actions, as approved by the RRC, will be issued to the Registered Entity as described in Section 4.7 – *Notice of Confirmed Violation* and will be posted on the RRC website with provisions and a deadline for accepting public comment.

At the time of notifying the Registered Entity of the confirmed violation, the RRC shall also provide notice to the Registered Entity that the Registered Entity may provide a written explanatory statement to accompany the public notice and RCA filing of the confirmed violation. 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.

The RRC shall file the *Notice of Confirmed Violation* and *Proposed Penalty* containing any proposed enforcement action, penalties, and sanctions with the RCA in accordance with Section 4.8 – *Enforcement Action Completion*.

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4.7.2 Notices of Confirmed Violation(s) and Proposed Penalty Submission to the RCA

The RRC will issue a *Notice of Alleged Violation* and proposed Penalty or sanction/nonmonetary penalty to the Registered Entity and will file the notice with the RCA. Any such filing with the RCA shall be made in accordance with Section 7.0 – Documents, Reporting, and Disclosure. The *Notice of Confirmed Violation* and *Proposed Penalty* will include:

- The name of the entity subject to the penalty;
- Identification of each Reliability Standard the Registered Entity violated;
- A statement setting forth findings of fact with respect to the act or practice resulting in the violation of each Reliability Standard;
- A statement describing the Penalty or sanction/nonmonetary penalty imposed;
- A record of the enforcement actions and hearing conducted in accordance with AS 42.05.775(a)(2) to address the assessment of the Penalty;
- Any statement provided by the Registered Entity as set forth in Section 4.4 – Registered Entity Response or Section 4.6 – Appeal of RRC Penalty Decisions to RCA;
- An appendix with the public comments received and any RRC response to those comments; and
- Other matters the RRC finds relevant to the imposition of the penalty.

In the event the Registered Entity has contested the matter through the RRC formal appeal process, the filing with the RCA will also include documents related to the appeal, including:

- Prepared written RRC findings of fact with the reasons for the final decision,
- Information and documentation supporting the RRC hearing process findings,
- A record of the hearing held to address the appeal, and
- Copies of all documents or other evidence presented at the hearing.

Unless remanded to the RRC by the RCA, the Penalty or sanction/nonmonetary penalty will be effective upon expiration of the thirty (30)-day period following filing with the RCA of the *Notice of Proposed Penalty* (or such longer period as ordered by the RCA) or, if the RCA opens a docket to review the Penalty or sanction/nonmonetary penalty, upon final determination by the RCA.

4.8 Enforcement Action Completion

Following RCA approval of, or expiration of the period for action by the RCA on, a *Notice of Proposed Penalty* filed by the RRC, the RRC shall issue a payment due notice and invoice to the Registered Entity. The payment due notice and invoice shall state the payment due date, which shall be thirty (30) days from the date of the payment due notice and invoice. Upon payment of all monetary penalties by the Registered Entity, the RRC shall issue a notice confirming payment to the Registered Entity.

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The RRC will issue a *Notice of Completion of Enforcement Action* to the Registered Entity as follows:

- Following the completion by the Registered Entity of all requirements set forth in the *Notice of Penalty* and any settlement agreement, including any mitigating actions, the RRC shall issue the Registered Entity a *Notice of Completion of Enforcement Action*.
- If the RRC dismisses or disposes of a possible violation or alleged violation that does not become a confirmed violation, the RRC shall issue a *Notice of Completion of Enforcement Action* to the Registered Entity.

A copy of the *Notice of Completion of Enforcement Action* will also be provided to the RCA by the RRC and posted on the RRC website.

The *Notice of Completion of Enforcement Action* will include a release of any data retention directives that were previously issued to the Registered Entity in connection with the matter. Upon issuance of a *Notice of Completion of Enforcement Action*, tracking of the violation is completed, and the enforcement action will be closed.

5.0 MITIGATION OF VIOLATIONS OF RELIABILITY STANDARDS

The RRC has authority to collect, review, approve, and monitor the implementation of mitigation plans required as a result of a confirmed violation of a Reliability Standard as described in Section 4.0 – Enforcement Actions.

5.1 Mitigation Plan Submission Requirement

A Registered Entity found to be in violation of a Reliability Standard shall file the following with the RRC within thirty (30) days: (1) a report detailing how the violation has been mitigated, or (2) a proposed Mitigation Plan to correct the violation. A Registered Entity may also submit a proposed Mitigation Plan at any other time, including with a self-report, or, without admitting it has committed a violation, in response to a *Notice of Possible Violation* or *Notice of Alleged Violation*.

Requirements for Mitigations Plan submittal according to Registered Entity responses are listed below:

- **No Contest:** A Mitigation Plan must be submitted by the Registered Entity within thirty (30) days after being served the *Notice of Alleged Violation* if the Registered Entity does not contest the alleged violation and Penalty or sanction/nonmonetary penalty.
- **Settlement Agreement:** If the Registered Entity and the RRC enter into a settlement agreement, the Mitigation Plan must also be reflected in that settlement agreement.
- **Contests:** The Registered Entity may choose to submit a Mitigation Plan while it contests an alleged violation or Penalty or sanction/nonmonetary penalty or in response to a *Notice of*

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Possible Violation; such submission shall not be deemed an admission of a violation or of the appropriateness of a penalty or sanction/nonmonetary penalty. If the Registered Entity contests the alleged violation or the Penalty or sanction/nonmonetary penalty with the RRC, the Registered Entity shall submit its Mitigation Plan within ten (10) business days following issuance of the Board's or their designee's determination of the contested matter.

If the Registered Entity has not yet submitted a Mitigation Plan, or the Registered Entity submits a Mitigation Plan that is rejected by the RRC in accordance with Section 5.5 – Review and Acceptance or Rejection of Proposed Mitigation Plans, any subsequent violations of the Reliability Standard identified by the RRC before the RRC renders its decision will be considered repeat violations of the Reliability Standard.

5.2 Mitigation Plan Contents

A Mitigation Plan shall include the following information:

- The Registered Entity's point of contact for the Mitigation Plan, who shall be a person who is (1) responsible for filing the Mitigation Plan, (2) technically knowledgeable regarding the Mitigation Plan, and (3) authorized and competent to speak on behalf of the Registered Entity and 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 – Entity Registration Program.
- The possible, alleged, or confirmed violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
- The cause of the possible, alleged, or confirmed violation(s).
- The Registered Entity's action plan to correct the possible, alleged, or confirmed violation(s).
- The Registered Entity's action plan to correct the cause of the possible, alleged, or confirmed violation(s).
- The Registered Entity's action plan to prevent recurrence of the possible, alleged, or confirmed violation(s).
- The anticipated impact of the Mitigation Plan on the reliability of the BES, and an action plan to mitigate any increased risk to the reliability of the BES while the Mitigation Plan is being implemented.
- A timetable for completion of the Mitigation Plan, including the date by which the Mitigation Plan will be fully implemented and the possible, alleged, or confirmed violation(s) corrected.
- Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates of more than three (3) months from the date of submission. Additional violations may be determined for not completing work associated with accepted milestones.

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- Any other information deemed necessary or appropriate by the RRC.

The Mitigation Plan shall be signed by an officer, employee, attorney, or other authorized representative of the Registered Entity.

5.3 Mitigation Plan Timetable

A Mitigation Plan must be submitted by the Registered Entity to the RRC on the following timetable, as applicable:

- Within thirty (30) days after being served the *Notice of Alleged Violation* if the Registered Entity does not contest the alleged violation and proposed Penalty or sanction/nonmonetary penalty.
- Within the timeframe reflected in a settlement agreement.
- Within ten (10) business days following issuance of the written decision of the RRC if the Registered Entity disputes the alleged violation or the Penalty or sanction/nonmonetary penalty.

5.4 Mitigation Plan Completion and Extensions

The Mitigation Plan shall be completed in accordance with its terms. However, at the RRC's discretion, the completion deadline may be extended for good cause, including, but not limited to, for the following reasons:

- Operational issues such as the inability to schedule an outage to complete mitigating activities, and
- Construction requirements in the Mitigation Plan that require longer to complete than originally anticipated.

If the Mitigation Plan extends beyond the next applicable reporting/assessment period, Penalties or sanctions/nonmonetary penalties 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.

Timeline for Extension Requests: 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 RRC at least five (5) business days before the original milestone or completion date. The RRC may accept a request for an extension or modification of a Mitigation Plan if the RRC determines the request is justified.

Additional Violations During Extension: Any additional potential violations assessed during the period of time the accepted Mitigation Plan is being implemented will be recorded by the RRC. The associated Penalties or sanctions/nonmonetary penalties will include a notation that the Registered Entity is

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working under an accepted Mitigation Plan with an extended completion date. Penalties or sanctions/nonmonetary penalties will be held in abeyance until completion of the Mitigation Plan. Upon completion of the accepted Mitigation Plan in accordance with Section 5.6 – Confirmation of Mitigation Plan Implementation, the RRC 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/nonmonetary penalties will apply.

5.4.1 Rejected Extended Mitigation Plans

If a Mitigation Plan submitted by a Registered Entity is rejected by the RRC in accordance with Section 5.5 – Review and Acceptance or Rejection of Proposed Mitigation Plans, the Registered Entity will be subject to any additional 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/nonmonetary penalties imposed for such violations.

5.5 Review and Acceptance or Rejection of Proposed Mitigation Plans

5.5.1 Review Period

Unless the time period is extended by the RRC, the RRC will complete its review of the Mitigation Plan and issue a written statement accepting or rejecting the Mitigation Plan within thirty (30) days of receipt. If no statement is issued by the RRC within thirty (30) days, the Mitigation Plan will be deemed accepted unless the RRC extends the review period, as described below.

- To extend the initial or an extended period for review of the Mitigation Plan, the RRC shall, within the initial or extended review period, notify the Registered Entity that the review period is being extended and identify the date by which the RRC will complete its review of the Mitigation Plan.
- The RRC’s extension notice shall also state that if the RRC has not issued a notice by the end of the extended review period either stating that the RRC accepts or rejects the proposed Mitigation Plan or further extending the RRC’s period for review of the Mitigation Plan, the Mitigation Plan will be deemed accepted.

5.5.2 Rejection of Mitigation Plan

If the RRC rejects a Mitigation Plan, the RRC 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.

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Revised Plan: The RRC will, within ten (10) business days after receipt of a revised Mitigation Plan, notify the Registered Entity of its decision to accept or reject the revised Mitigation Plan; if rejecting, the RRC will also provide a written statement describing the reasons for rejection and the required date for the second revised Mitigation Plan.

Second Review: If the second review results in rejection of the Mitigation Plan, the Registered Entity may request a hearing in accordance with the [RRC Compliance Hearing Process] by submitting to the RRC a written request for a hearing that includes an explanation of why the Mitigation Plan should be accepted. After the hearing is completed, the RRC will issue a written statement affirming its rejection or accepting a Mitigation Plan it deems appropriate.

5.5.3 Requirement for Revision of Mitigation Plan

If the RRC subsequently determines, upon completing its assessment of the possible violation, that the facts and circumstances are different from those on which the accepted Mitigation Plan was based, the RRC may, by *Notice of Requirement for Revision of Mitigation Plan* to the Registered Entity, require the Registered Entity to submit a revised Mitigation Plan that fully addresses the facts and circumstances of the violation. The notice shall state the additional or different facts and circumstances that need to be addressed in the revised Mitigation Plan.

The Registered Entity shall submit a revised Mitigation Plan in response to the notice within thirty (30) days following the date of the notice, unless the RRC specifies or allows a longer time. The Registered Entity's revised Mitigation Plan will be subject to review and acceptance or rejection by the RRC in accordance with this Section 5.5 – Review and Acceptance or Rejection of Proposed Mitigation Plans.

If the RRC issues a *Notice of Confirmed Violation* or enters a settlement with the Registered Entity and does not identify a need to request modifications to the provisionally accepted Mitigation Plan based on additional or different facts and circumstances, the RRC shall issue a *Notice of Requirement for Revision of Mitigation Plan* to the Registered Entity stating that the “provisional” nature of the acceptance is terminated, and the acceptance is final. The RRC shall issue such notice within five (5) business days of issuance of the *Notice of Confirmed Violation* or entry execution of a settlement agreement.

5.5.4 Approved Mitigation Plan

The RRC will, within seven (7) business days of approving a Mitigation Plan, submit to the RCA, as a nonpublic informational filing, an approved Mitigation Plan relating to violations of Reliability Standards. The RRC shall also publicly post on its website the approved Mitigation Plan and the related *Notice of Confirmed Violation* and *Notice of Proposed Penalty* in accordance with Section 7.0 – Documents,

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Reporting, and Disclosure, or if there was a settlement agreement, then in accordance with Section 4.6 – Appeal of RRC Penalty Decisions to RCA.

5.6 Confirmation of Mitigation Plan Implementation

The Registered Entity shall provide Mitigation Plan progress updates as required in the Mitigation Plan. The RRC will track the Mitigation Plan to completion and may conduct on-site visits and review the status of Mitigation Plan milestones and progress toward completion of the Mitigation Plan during the Compliance Audit.

Upon completion of the Mitigation Plan, the Registered Entity shall provide to the RRC a certification signed by an officer, employee, attorney, or other authorized representative of the Registered Entity that all required actions described in the Mitigation Plan have been completed with data or information sufficient for the RRC to verify completion. The RRC may request additional data or information and will conduct follow-up assessments, on-site audits, or other Compliance Audits it deems necessary to verify that all required actions in the Mitigation Plan have been completed.

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 5.4 – Mitigation Plan Completion and Extensions, 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 Mitigation Plan must be submitted to the RRC for approval. In addition, the RRC may conduct a Compliance Audit of, or issue a RAD to, the Registered Entity.

5.7 Recordkeeping

The RRC will maintain a record containing the following information for each Mitigation Plan:

- Name of the Registered Entity.
- The date of the violation(s).
- Monitoring method by which the violation was detected (i.e., self-report, Compliance Audit, compliance investigation, or complaint).
- Date(s) of *Notice of Possible Violation* and *Notice of Alleged Violation* (if applicable).
- 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 notices and data submitted as evidence of completion.
- Any other information deemed relevant.

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6.0 REMEDIAL ACTION DIRECTIVES

The RRC may issue a RAD based on its own knowledge or pursuant to a request or directive of the RCA when such remedial action is immediately necessary to protect the reliability of the BES from an imminent or actual threat. A RAD may include, but is not limited to, the following:

- Specifying operating or planning criteria, limits, or limitations that must be adhered to;
- 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 RAD may be issued to a Registered Entity at any time. The RRC will specify whether a RAD obviates the need for a Mitigation Plan.

A RAD must be provided in a notice to the Registered Entity. The notice shall include:

- A list of the possible violation(s) or alleged violation(s) of Reliability Standards that are the basis for issuance of the RAD;
- A discussion of the factual basis for the RAD;
- The requirements the RRC is imposing to remove the imminent or actual threat to the reliability of the BES;
- A deadline for compliance and a schedule for specific periodic updates to the Compliance Enforcement Authority; and
- Notice to the Registered Entity that failure to comply with the directive by the required date may result in an enforcement action by initiating a compliance monitoring or enforcement process pursuant to the applicable provisions of this CMEP Rule.

The RRC will issue the *Notice of Remedial Action Directive* to the Registered Entity by (1) electronic mail to the Registered Entity's CEO or equivalent and copied to the Registered Entity's designated contact person for reliability matters, and (2) a recognized express courier service that provides tracking and verification of delivery to the recipient. The notice will be deemed received on the earlier of the actual

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date of receipt of the electronic submission or receipt of the express courier delivery as specified by the express courier service's verification of delivery.

Once the RRC has given the Registered Entity *Notice of Remedial Action Directive*, the Registered Entity may appeal the RAD by giving written notice to the RRC (RAD Appeal Notice) within two (2) business days following the date of receipt. Due to the urgency of resolving any objections to a RAD, a hearing will be conducted in accordance with the [RRC Compliance Hearing Process]. Issuance of the RAD Appeal Notice and participation in the expedited hearing process shall constitute the Registered Entity's right to appeal the RAD. The Registered Entity may elect not to implement the RAD until the hearing process is completed or may proceed with implementing the RAD while it is contesting the RAD.

The RRC will report the issuance of the RAD to the RCA within two (2) business days in accordance with Section 7.0 – Documents, Reporting, and Disclosure.

The RRC will monitor implementation of RADs as necessary to verify compliance.

7.0 DOCUMENTS, REPORTING, AND DISCLOSURE

The CMEP Rule will adhere to the Documents Retention and Access Rule (ER3) and Confidential Documents and Access Rule (ER4).

The RRC will file with the RCA documents related to a *Notice of Confirmed Violation and Proposed Penalty* as required by statute and regulations. For information classified as confidential by the RRC, the RRC will petition the RCA for confidential status in accordance with 3 AAC 46.120(c). Any violations of Critical Infrastructure Protection (CIP) Reliability Standards will not be shared publicly to prevent information on CIP vulnerabilities from becoming public. For violations of CIP Reliability Standards, the RRC will publicly identify the Reliability Standard violated and any Penalty or sanction/nonmonetary penalty applied, but not the identity of the violator or the details of the violation. Such information will be provided to the RCA on a confidential basis as critical energy infrastructure information.

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8.0 REFERENCES

RRC Reports & Other Documents

- RRC Antitrust Compliance Guidelines. To be developed by RRC post-certification.
- RRC Compliance Hearing Process. To be developed by RRC post-certification.
- RRC Compliance Monitoring and Enforcement Manual. To be developed by RRC post-certification.
- RRC Compliance Registry. To be developed by RRC post-certification.
- RRC Compliance Registry Criteria. To be developed by RRC post-certification.
- RRC Master Definitions. 2021.
- RRC Process for Non-Submittal of Requested Data. To be developed by RRC post-certification.
- RRC Risk-based Compliance Criteria. To be developed by RRC post-certification.
- RRC Sanction Guidelines. To be developed by RRC post-certification.

RRC Forms

- RRC Complaint Reporting Form. To be developed by RRC post-certification.
- RRC FFTR Report Form. To be developed by RRC post-certification.
- RRC Self-Report Submittal Form. To be developed by RRC post-certification.

RRC Notices

- *Notice of Alleged Violation*
- *Notice of Appeal of Remedial Action Directive*
- *Notice of Completion of Enforcement Action*
- *Notice of Compliance Audit*
- *Notice of Compliance Investigation*
- *Notice of Confirmed Violation*
- *Notice of Final Acceptance of Mitigation Plan*
- *Notice of No Violation*
- *Notice of Penalty*
- *Notice of Possible Violation*
- *Notice of Proposed Penalty*
- *Notice of Requirement for Revision of Mitigation Plan*
- *Notice of Remedial Action Directive*
- *Notice of Violation*

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APPENDIX A DEFINITIONS

Alleged Violation

A Possible Violation that the RRC has identified, but which has yet to be confirmed by the Board, based on an assessment of the facts and circumstances surrounding the Possible Violation, for which evidence exists to indicate a Registered Entity has violated a Reliability Standard.

Audit Plan

A plan developed by the RRC that includes the Reliability Standards and Registered Entities to be audited and the schedule of Compliance Audits for the calendar year.

Complaint

An allegation that a Registered Entity violated a Reliability Standard.

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.

Compliance Audit Participants

The Registered Entity and SMEs representing the Registered Entity scheduled to be audited.

Compliance Investigation

A comprehensive investigation, which may include an on-site visit with interviews of the appropriate personnel, to determine whether a violation of a Reliability Standard has occurred.

Compliance Registry

A list, maintained by the RRC, pursuant to the [RRC Compliance Registry Criteria], of the Users, Owners or Operators of the Interconnected Bulk-Electric System (BES) that perform one or more functions in support of reliability of the BES and are required to comply with one or more requirements of Reliability Standards.

Compliance Monitoring and Enforcement Program (CMEP)

The RRC's Compliance Monitoring and Enforcement Program responsible for performing compliance monitoring and enforcement activities with respect to Registered Entities' compliance with Reliability Standards.

Find, Fix, Track, and Report (FFTR)

A streamlined process to resolve minimal- or moderate-risk remediated Possible Violations that are not assessed a financial penalty.

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Interconnected Bulk-Electric System (BES)

An Interconnected electric energy transmission network that includes two or more load-serving entities, at least one of which is subject to the provisions of AS 42.05.291.

Interconnected Electric Energy Transmission Network

A network of interconnected electrical generation resources, transmission lines, interconnections, and associated equipment operated at voltages of 69 kilovolts or more, operating in a geographic area that are synchronized so that the failure of one or more of the components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within the control of the operators.

Load-serving Entity

An electric utility that has a service obligation to distribute power to more than ten (10) customers that receive invoices directly from the entity.

Mitigating Activities

Actions taken by a Registered Entity to correct and prevent recurrence of a noncompliance, whether or not the actions are embodied in a Mitigation Plan.

Mitigation Plan

An action plan developed by the Registered Entity to (1) correct a violation of a Reliability Standard, and (2) prevent reoccurrence of the violation.

Penalty

Includes all penalties and sanctions. Including but not limited to a monetary or nonmonetary penalty, a limitation on an activity, function, operation, or other appropriate sanction. Penalties must be within the range set forth in the [RRC Sanction Guidelines] approved by the RCA, shall bear a reasonable relation to the seriousness of a Registered Entity's violation, and shall take into consideration any timely efforts made by the Registered Entity to remedy the violation.

Possible Violation

The identification, by the RRC, of a possible failure by a Registered Entity to comply with a Reliability Standard that is applicable to the Registered Entity.

Preliminary Screen

An initial evaluation of evidence indicating potential noncompliance with a Reliability Standard has occurred or is occurring, conducted by the RRC for the purpose of determining whether a Possible Violation exists, and consisting of an evaluation of whether (1) the entity allegedly involved in the potential noncompliance is registered, (2) the Reliability Standard requirement to which the evidence of

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potential noncompliance relates is applicable to a reliability function for which the entity is registered, and (3) if known, the potential noncompliance is not a duplicate of a Possible Violation or Alleged Violation which is currently being processed.

Railbelt

The geographic area of Alaska extending from the communities of Fairbanks and Delta Junction in the north; to Homer and Seldovia in the south; to Tyonek in the west; and to Glacier View, Seward, and Whittier in the east. The Railbelt contains the service territories of Golden Valley Electric Association, Matanuska Electric Association, Chugach Electric Association, Homer Electric Association, and the City of Seward.

Receiving Entity

RRC receiving confidential information from a User, Owner, or Operator of the BES or from any other party.

Registered Entity

A User, Owner, or Operator registered with the electric reliability organization and subject to Reliability Standards approved by the RRC and the RCA.

Reliability Standard

Reliability standards of the RRC include, but are not limited to, any class of standards for the Interconnected Electric Energy Transmission Network, including balancing, modeling, protective relaying, reserve sharing, transmission planning, reactive power generation and control, physical security, and cybersecurity.

Remedial Action Directive (RAD)

An action required by the RRC that (1) brings 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 BES from an imminent or actual threat.

Self-Certification

An attestation by a Registered Entity that it is compliant or noncompliant with a Reliability Standard requirement that is the subject of the self-certification, or that it does not own facilities that are subject to the Reliability Standard requirement, or that the Reliability Standard requirement is not applicable to the Registered Entity.

Self-Report

A report by a Registered Entity stating that the Registered Entity believes it has, or may have, violated a Reliability Standard.

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Submitting Entity

A User, Owner, or Operator of the BES or any other party that submits information to the RRC which it reasonably believes contains confidential information.

User, Owner, or Operator

A person or entity that (1) is, or within a reasonable time will be, generating, transmitting, storing, or distributing electricity; and (2) may, as a result of electric facilities or equipment it owns, leases, operates, or controls, adversely affect the reliable operation of the BES.

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APPENDIX B ACRONYMS & ABBREVIATIONS

Term	Definition
AAC	Alaska Administrative Code
AS	Alaska Statute
BES	Interconnected Bulk-Electric System
CEO	chief executive officer
CIP	critical infrastructure protection
CMEP	Compliance Monitoring and Enforcement Program
ERO	Electric Reliability Organization
FFTR	Find, Fix, Track, and Report (process)
LSE	Load-serving Entity
RAD	Remedial Action Directive
RCA	Regulatory Commission of Alaska
RRC	Railbelt Reliability Council
RRP	Registration Review Process
SME	subject matter expert
TAC	Technical Advisory Council
VSL	violation severity level

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