



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NERC Compliance Process Public Notice 2009-01

Clarifies Usage and Impact of FERC Revised Policy Statement on Enforcement and FERC Policy Statement on Compliance within ERO Compliance Monitoring and Enforcement Program (CMEP)

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The Federal Energy Regulatory Commission (FERC) in the U.S. issued its initial *“Policy Statement on Enforcement”* on October 20, 2005 under Docket PL06-1-000. On May 15, 2008, FERC issued its *“Revised Policy Statement on Enforcement”* under Docket PL08-3-000, in part to *“give the industry a fuller picture as to how [the Commission’s] investigative process works”* and *“set forth in detail the factors we consider in determining whether a penalty is appropriate and, if so, the amount of the penalty.”*¹ On October 16, 2008, FERC issued its *“Policy Statement on Compliance”* under Docket No. PL09-1-000 *“to provide additional guidance to the public on compliance with our governing statutes, regulations and orders.”*

NERC’s Sanctions Guidelines² frequently make specific reference to FERC’s original policy statement issued in 2005, and NERC has consistently acted to establish and publicize that the statement is foundational to implementation of the Compliance Monitoring and Enforcement Program (CMEP) in the United States.

This notice clarifies that NERC has itself implemented, and directed to its Regional Entity delegated authorities, that all references to the October 20, 2005 FERC policy statement in CMEP documents (including the Sanctions Guidelines) should be construed to mean the aggregate of all three of the documents referenced above, with the two newer documents superseding or complementing the former, as applicable (and as the revised May 2008 statement and October 2008 policy statements describe).

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¹ Para 5; FERC *“Revised Policy Statement on Enforcement”* issued as Docket PL08-3-000 (123 FERC ¶ 61,156)

² *“Sanction Guidelines of the North American Electric Reliability Corporation”* forming Appendix 4B of the NERC Rules of Procedure.