

Compliance Process

October 19, 2016

Taking action to promote effective competition and a culture of compliance and accountability in Alberta's electricity and retail natural gas markets

www.albertamsa.ca

Table of Contents

1	Interpretation.....	4
2	Introduction	5
3	ISO Rules Enforcement	5
3.1	Collaboration between AESO and MSA	5
3.2	AESO Initial Point of Contact Where Issue Identified by AESO Monitoring	6
3.3	Self-Reporting.....	6
3.4	Opportunity to Provide Information to the MSA	7
3.5	Specified Penalties	7
3.6	Forbearance	8
3.7	Dispute or Failure to Pay Specified Penalty	8
3.8	Clarifications by MSA.....	8
3.9	Notice of Specified Penalty Made Public.....	8
4	Alberta Reliability Standards Enforcement	10
4.1	Collaboration between Compliance Monitor and MSA	10
4.2	Compliance Monitor Initial Point of Contact Where Issue Identified by Monitoring	10
4.3	Self-Reporting.....	11
4.4	Opportunity to Provide Information to the MSA	12
4.5	Specified Penalties	12
4.6	Subject Matter Experts.....	13
4.7	Forbearance	13
4.8	Mitigation Plans	13
4.9	Clarifications by MSA.....	15
5	MSA Extended Enforcement Process	17
5.1	Preliminary Meeting (Optional).....	17
5.2	MSA Internal Review	17
5.3	Final Meeting (Optional).....	17
5.4	MSA Decision	17
5.5	Settlement Agreement (Optional).....	18
5.6	Request for an AUC Hearing or Other Proceeding.....	18
6	Amendments.....	18
	Appendix A: ISO Rules Self-Reporting Form.....	20

Appendix B: Notice of Specified Penalty (ISO Rules)	21
Appendix C: Reliability Standards Self-Reporting Form	22
Appendix D: Notice of Specified Penalty (Reliability Standards).....	23
Appendix E: Mitigation Plan Submittal Form	24
Appendix F: Milestone Update Form	27
Appendix G: Mitigation Plan Completion Form	28
Appendix H: Mitigation Plan Extension Request Form	29
Appendix I: Rules Relevant to MSA Enforcement Processes	30

1 Interpretation

“AESO” means the Alberta Electric System Operator, also referred to as the Independent System Operator or ISO, established pursuant to the EUA.

“AUC” or “Commission” means the Alberta Utilities Commission, established under s. 2 of the AUCA.

“AUCA” means the *Alberta Utilities Commission Act SA 2007 cA – 37.2*, including as amended from time to time.

“Compliance Monitor” means the organization mandated to conduct compliance monitoring activities, or their agent.

“Compliance Program” means the policies and procedures of an organization that support and promote conducting business in conformity with applicable statutes. Compliance programs facilitate awareness of obligations, and are designed to identify contraventions and generate corrective actions when contraventions occur.

“Enforcement Action” means that in furtherance to its mandate and as applicable, the MSA may issue a notice of specified penalty; per AUCA s. 52; request a hearing or other proceeding before the AUC to seek an administrative penalty or other relief per AUCA s. 51 and s. 64; or pursue resolution of an issue by way of negotiated settlement or consent order per AUCA s. 44 and s. 54.

“EUA” means the *Alberta Electric Utilities Act SA 2003 cE – 5.1*, including as amended from time to time.

“Favourable Treatment” means that the MSA will do its best to process contraventions with a view to a lesser penalty than would otherwise be the case. Penalty in this definition would include the potential costs of litigation and any fine or other relief that the MSA may seek from the AUC.

“Forbear” means that the MSA will not pursue enforcement action with respect to the suspected contravention, including that the matter will not be made public.

“Information” means information in any form, and should be understood in the same fashion as the term “record”, defined at AUCA s. 31(2)(i).

“ISO rules” means the rules established by the AESO and approved by the AUC.

“Mitigation Plan” means a document which describes remedial actions to be taken following the recognition of a contravention of a reliability standard to correct the source of non-compliance and to minimize interim risks. This document also specifies the timing or benchmarks to be met in meeting this objective.

“MSA” means the Market Surveillance Administrator; a corporation continued under the AUCA.

“MSR” means the *Market Surveillance Regulation AR 266/2007*, enacted pursuant to the AUCA, including as amended from time to time.

“Reliability Standards” means the reliability standards that have been adopted by the ISO in accordance with subsections 19(4) and 19(5) of the Transmission Regulation for effect in Alberta.

“Specified Penalty” means a penalty that has been specified by the Commission in respect of a contravention of an ISO rule or a reliability standard, pursuant to AUCA s. 52.

2 Introduction

Market participants must comply with ISO rules and Reliability Standards [Reference EUA s. 20.8]. The MSA’s mandate includes undertaking activities to address contraventions of ISO rules and Reliability Standards [Reference AUCA s. 39(1)(b)(i)].

The MSA expects that market participants accept accountability for compliance and take appropriate actions to prevent and mitigate incidents of non-compliance. Enforcement action is desired by the MSA to be a last resort to promote compliance and accountability. Accordingly, this document outlines incentives for self-reporting, development of effective Compliance Programs, and addressing particular problems through Mitigation Plans.

This document is intended to provide a comprehensive description of the MSA’s process relating to compliance enforcement within the mandate of the MSA.

3 ISO Rules Enforcement

3.1 Collaboration between AESO and MSA

The AESO is required under the EUA to monitor the compliance of market participants with the ISO rules [Reference EUA s. 17(l.1)].

Given that the mandate of the MSA includes enforcement in relation to contraventions of the ISO rules, the AESO and the MSA will work together to address compliance with those rules. Such a working relationship can achieve efficiencies for not only the AESO and the MSA, but also for market participants whose compliance with the rules may be at issue. The MSA looks to avoid creating undue regulatory burden while at the same time providing a fair and reasonable process.

As set out below, the Information gathered by the AESO as part of its monitoring will also assist the enforcement work of the MSA. Accordingly, the MSA will avoid duplication of that Information gathering (the MSA may, however, seek additional Information where that is deemed necessary in respect of the matters at issue). The AESO and the MSA will also coordinate their contact with the market participant in relation to a particular ISO rules issue identified by the AESO through its monitoring, such that the market participant will generally deal with only one agency at a time.

The market participant will, in this coordinated process, be given a reasonable opportunity to know what is at issue regarding their conduct and to provide relevant factual information as well as their views regarding the issue.

3.2 AESO Initial Point of Contact Where Issue Identified by AESO Monitoring

Unless an ISO rules compliance matter has been self-reported (see Section 3.3) to the MSA by a market participant, the AESO will typically be the initial point of contact with market participants (generally in the form of an AESO information request). The AESO will identify potential compliance issues and gather information to validate its initial findings, including a possible request(s) for information from the market participant. If the AESO then suspects a contravention of an ISO rule, it will notify the participant and will send a copy of this notice to the MSA. Details of the AESO's compliance monitoring process are described in ISO Rule Section 103.12.

Such notification by the AESO operates as a referral of the suspected contravention to the MSA as required under the EUA [Reference EUA s. 21.1]. Following this notification, the MSA has sole carriage of the matter and is the primary contact for the participant. The MSA then assesses the relevant circumstances and information toward determining whether and if so, what level of enforcement action is appropriate.

As part of the referral, and pursuant to ISO Rule 103.12, the AESO will make available to the MSA information obtained in the course of its compliance monitoring activities to assist the MSA regarding its assessment of the matter.

3.3 Self-Reporting

The MSA supports and encourages self-reporting of contraventions of ISO rules. A self-report provides evidence to the MSA that a market participant has implemented effective internal procedures (Compliance Program) to identify such issues. At the least, a self-report is eligible for more favourable treatment than if it otherwise came to the attention of the MSA by AESO referral.

This means that if the MSA is satisfied that a self-report meets the following criteria, the MSA will forbear:

- The contravention is deemed by the MSA to be non-serious
- The self-report contains all information requested in the provided reporting template ¹
- The self-report is received within 30 days of the date the contravention began
- The self-report occurred prior to the participant being alerted by the Compliance Monitor or the MSA
- The participant has a Compliance Program in effect and the self-report includes a statement to this effect
- The conduct did not result in a material financial gain

¹ The MSA will accept an e-mail address as the contact address for purposes of 4(4)(b) of AUC Rule 019.

- The conduct did not jeopardize the reliability of the Alberta Interconnected Electric System
- The conduct is not part of a recurring problem
- The self-report clearly acknowledges the contravention(s) reported
- The self-report was sent to compliance@albertamsa.ca and copied to the Compliance Monitor at marketcompliance@aeso.ca

For an event in which the MSA has extended Forbearance, the event will not be recognized as a contravention insofar as escalating future penalties that may apply. The MSA will track all events, and as such, prior events where Forbearance was extended will inform the MSA whether a subsequent event constitutes a recurring problem and hence whether subsequent Forbearance is appropriate. Self-reports not meeting all of the criteria set out above still have the prospect of Favourable Treatment relative to matters that are referred, including a reduction in the amount of Specified Penalty.

To facilitate such self-reports, the MSA has provided a form in **Appendix A**. Self-reports need to be registered properly with the MSA; that means sent by e-mail to compliance@albertamsa.ca, with copy to the AESO at marketcompliance@aeso.ca. The MSA will acknowledge receipt of all self-reports.

The MSA will conduct an assessment of the reported contravention issue and will thereafter remain the point of contact for the market participant until the conclusion of its determination of the issue (including, as applicable, the issuance of any Specified Penalty relating to the contravention).

3.4 Opportunity to Provide Information to the MSA

Market participants are afforded an opportunity to provide Information they believe is relevant to the suspected contravention either at the time of the self-report or in response to an AESO information request. Once a matter is referred to the MSA, a market participant having additional Information it believes should be considered by the MSA should provide such information to the MSA at the earliest opportunity following referral.

Toward seeking efficiency in the assessment process leading to the issuance of a Notice of Specified Penalty or other enforcement action, the MSA may choose to rely upon Information obtained by the AESO. However, the MSA reserves the right and discretion to seek additional Information.

3.5 Specified Penalties

MSA assessment of an ISO rules compliance matter is depicted in **Figure 1**.

Where the MSA is satisfied that a person has contravened an ISO rule for which a penalty has been specified by the Commission [AUC Rule 019], the MSA may issue a Notice of Specified Penalty (**Appendix B**) in accordance with the relevant Commission rules [Reference AUCA s. 52(1)].

Notices of Specified Penalty will be sent via e-mail only, and in accordance with AUC Rule 019 must be sent to particular individuals. The MSA encourages market participants to keep the MSA updated on the names and contact details of those individuals. Such information should be sent to: compliance@albertamsa.ca.

Where the MSA is satisfied that a person has contravened an ISO rule and the rule is not specified in AUC Rule 019, the MSA may pursue the matter under s.51 of the AUCA and recommend an administrative penalty similar in quantum to a Specified Penalty in one of the categories of AUC Rule 019.

For efficiency, the MSA will apply Specified Penalties where available and appropriate; however, the MSA reserves its discretion to take any contravention where a Specified Penalty has not been defined or where a Specified Penalty has been defined but the MSA believes the specified penalty is not commensurate with the matter at issue, to an administrative proceeding before the AUC.

3.6 Forbearance

If the MSA is not satisfied of a contravention, or it believes that Forbearance is appropriate, the MSA will inform the market participant of its decision via e-mail. In some cases, the MSA may issue a conditional Forbearance [Reference AUCA s. 57(1)]. In the event the MSA issues conditional Forbearance, any conditions will be made clear in the Forbearance notice. As an example, if a participant has provided preliminary Information that is subject to confirmation, Forbearance may be conditional on such confirmation.

3.7 Dispute or Failure to Pay Specified Penalty

Where the person fails to pay or disputes the Specified Penalty in accordance with the Notice of Specified Penalty issued by the MSA, the MSA will commence an enforcement action before the Commission [Reference AUCA s. 52(2)].

3.8 Clarifications by MSA

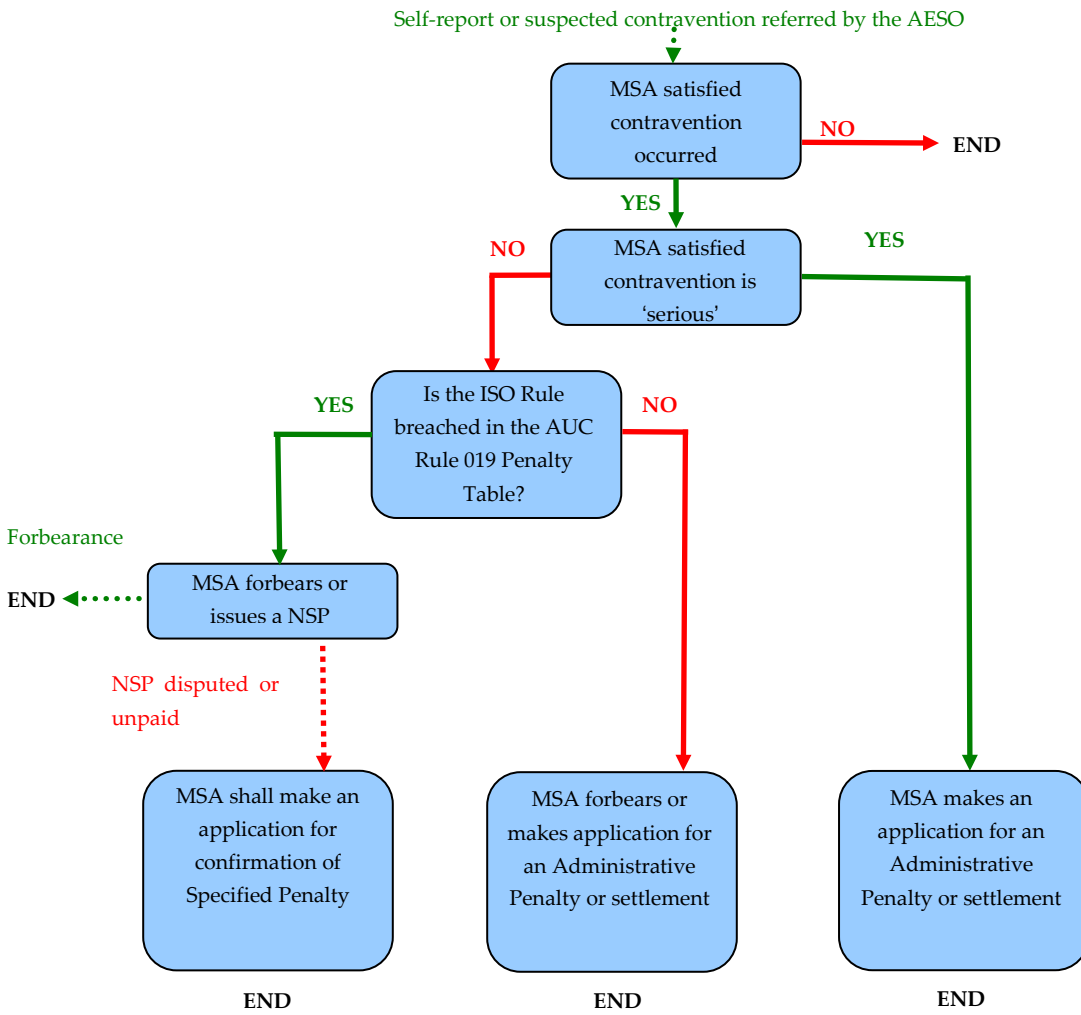
Where a person fails or refuses to pay a Specified Penalty in accordance with the related Notice, the MSA may, prior to commencing an enforcement action before the Commission, seek additional Information to confirm intent to pay or to dispute the penalty. If the person has indicated the intent to dispute, the MSA may request further Information to determine the basis of the dispute.

In all cases where the MSA seeks further Information from a person whose conduct is at issue, the MSA will notify that party as to the reason for the request.

3.9 Notice of Specified Penalty Made Public

In accordance with the relevant enactments and rules, the MSA will make public any Notice of Specified Penalty issued by the MSA.

Figure 3.1: ISO Rules Enforcement Process



4 Reliability Standards Enforcement

4.1 Collaboration between Compliance Monitor and MSA

The AESO has a mandate under Section 23 of the Transmission Regulation (AR 86/2007), to carry out compliance monitoring of registered entities to applicable Reliability Standards. As such, the AESO is the Compliance Monitor for Reliability Standards as applicable to registered entities other than the AESO itself. The AESO has published a Compliance Monitoring Plan which discusses the AESO's overall approach and related processes with respect to Reliability Standards compliance monitoring.

The WECC/AESO Membership and Operating Agreement, approved by AUC order U2008-261, and an MSA/WECC Service Level Agreement define a role for WECC as Compliance Monitor for Reliability Standards as applicable to the AESO.

The *Electric Statutes Amendment Act, 2009* and related changes to Sections 39, 51, and 52 of the AUCA broadened the mandate of the MSA to include enforcement in relation to contraventions of reliability standards. The MSA will work together with both of the above-noted compliance monitors to address compliance with the standards as applicable. Such working relationships are intended to achieve efficiencies for all stakeholders. The MSA looks to avoid creating undue regulatory burden, while at the same time providing a fair and reasonable process.

As set out below, the Information gathered by the Compliance Monitor in the course of its monitoring activities will also assist the enforcement work of the MSA. Accordingly, the MSA will avoid duplication of that Information gathering (the MSA may, however, seek additional Information later where that is deemed necessary in respect of the matters at issue). The MSA and the Compliance Monitor will also coordinate their contact with the registered entity in relation to a particular Reliability Standards issue identified through regular monitoring activities, such that the registered entity will generally deal with only one agency at a time.

The registered entity will, in this coordinated process, be given a reasonable opportunity to know what is at issue regarding their conduct and to provide relevant factual Information as well as their views regarding the issue.

4.2 Compliance Monitor Initial Point of Contact Where Issue Identified by Monitoring

Unless a compliance matter has been self-reported (see s.4.3) to the MSA by a registered entity, the Compliance Monitor will typically be the initial point of contact with registered entities. With respect to registered entities other than the AESO, the AESO as the applicable Compliance Monitor will monitor for potential compliance issues in accordance with ISO Rule 103.12 using the tools specified in the AESO's Compliance Monitoring Program. These tools include audits, self-certifications, exception reporting and periodic data submissions and reporting.

With respect to the AESO, WECC as the applicable Compliance Monitor will monitor for potential compliance issues in accordance with the MSA/WECC Service Level Agreement.

If the Compliance Monitor, through its monitoring, suspects a contravention of a reliability standard, it will notify the entity and send a copy of the notice to the MSA. Such a notification by the Compliance Monitor operates as a referral of the suspected contravention as required under the EUA [Reference EUA s. 21.1].

In the referral, the Compliance Monitor will include Information gathered during its applicable monitoring process. In addition to this Information, the Compliance Monitor will be asked to provide an opinion as to the seriousness of the contravention and whether a Mitigation Plan is required.

Following the referral, the MSA has sole carriage of the matter and is the primary contact for the participant. The MSA, if necessary, may engage the Compliance Monitor as a subject matter expert (see Section 4.6).

4.3 Self-Reporting

The MSA supports and encourages the self-reporting of contraventions. Self-reporting provides evidence to the MSA that an entity has implemented effective internal procedures (i.e. Compliance Program) to identify and proactively address such issues. Accordingly, the MSA will generally view a self-reported matter more favorably in relation to its assessment of the matter as compared to a referral to the MSA by the Compliance Monitor.

Should the MSA be satisfied that a self-report meets the following criteria, the MSA will Forbear:

- The contravention is deemed by the MSA to be non-serious
- The self-report contains all Information requested in the provided reporting template²
- The self-report is received within 30 days of the date the contravention began
- The self-report occurred prior to being alerted by the Compliance Monitor or the MSA
- The entity has a Compliance Program in effect and the self-report includes a statement to that effect
- The conduct did not result in a material financial gain
- The conduct did not jeopardize the reliability of the Alberta Interconnected Electric System
- The conduct is not part of a recurring problem
- The self-report clearly acknowledges the contravention(s) reported
- The self-report was sent to compliance@albertamsa.ca and copied to the Compliance Monitor at rscompliance@aeso.ca (for registered entities other than the AESO)
- As appropriate, an acceptable Mitigation Plan submitted in accordance with Section 4.8.1 within 30 days of the self-report or a brief explanation of why a Mitigation Plan is not applicable. The MSA may accept an incomplete plan submitted within 30 days of the

² The MSA will accept an e-mail address as the contact address for purposes of 4(9)(b) of AUC Rule 027.

self-report on the basis that the entity can demonstrate extenuating circumstances and a clear timeline for submittal of a comprehensive plan.

To facilitate such self-reporting, the MSA has provided a form in **Appendix C**.

The MSA will not however, recognize a self-report filed after a compliance audit has been initiated if the self-report pertains to suspected non-compliance within the current audit period and is within the audit scope communicated in the AESO's notice of pending audit. In this context, the MSA will consider the audit process to be initiated once the deadline for submission of audit evidence to the AESO has passed.

For an event in which the MSA has extended Forbearance, the event will not be recognized as a contravention insofar as escalating future penalties that may apply. The MSA will track all events, and as such, prior events where Forbearance was extended may have relevance to whether a subsequent event constitutes a recurring problem and hence whether subsequent Forbearance is appropriate. Self-reports not meeting all of the criteria set out above still have the prospect of Favourable Treatment relative to matters that are referred.

Self-reports by the AESO should be directed to the MSA via the Compliance Data Management System (webCDMS) web page at <https://www.cdms.oati.com>. A web form for self-reports, similar to the one found in **Appendix C**, is available on that website. As with referrals, the MSA may engage its applicable subject matter experts as may be required.

The MSA will respond via e-mail to confirm receipt of the self-reported Information.

4.4 Opportunity to Provide Information to the MSA

Given the extended process afforded in Reliability Standards compliance monitoring audits conducted by the Compliance Monitor, the MSA will operate on the assumption that the entity has presented all relevant information to the Compliance Monitor and the MSA will not as a matter of course, invite additional submissions from the entity before conducting its assessment. At its discretion, the MSA may accept additional submissions following referral of a suspected contravention of a reliability standard if extenuating circumstances can be demonstrated and the supplemental information can be provided on a timely basis. While the MSA may choose to rely on information obtained by the Compliance Monitor, the MSA reserves the right and discretion to seek additional Information.

4.5 Specified Penalties

An MSA assessment of a reliability standards compliance matter is depicted in **Figure 2**.

Where the MSA is satisfied that a person has contravened a Reliability Standard for which a penalty has been specified by the Commission [AUC Rule 027] the MSA may issue a Notice of Specified Penalty (**Appendix D**) in accordance with the relevant Commission rules [Reference AUCA s.52(1)].

Where the MSA is satisfied that a person has contravened a Reliability Standard and the Reliability Standard is not specified in AUC Rule 027, the MSA may pursue the matter under s.51 of the AUCA and recommend an administrative penalty similar in quantum to a Specified Penalty in one of the categories of AUC Rule 027. Where the MSA has identified that the potential sanction likely to be pursued is materially greater than those prescribed in AUC Rule 027, the MSA will extend additional process for dealing with the matter. This process and its applicability are discussed in Section 5.

For efficiency, the MSA will apply Specified Penalties where available and appropriate; however, the MSA reserves its discretion to take any contravention where it deems a Specified Penalty is not commensurate with the matter at issue to an administrative proceeding.

4.6 Subject Matter Experts

The MSA's enforcement will, as required, utilize subject matter experts (SME) at the AESO (for matters related to registered entities other than the AESO) and WECC (for all matters concerning the AESO). Where the MSA deems necessary and appropriate, subject matter experts will be asked to provide the MSA with opinions as to the seriousness of any contraventions and what would constitute acceptable mitigation. The MSA would provide an opportunity for the entity under suspicion of contravention to provide similar expert opinions. These opinions will inform the MSA in making a decision on whether to Forbear or to proceed with enforcement action, and ultimately could be presented as part of an application should the matter proceed to the AUC. The MSA encourages registered entities to utilize their own in-house subject matter experts while drafting Mitigation Plans. While the MSA will typically look to the AESO and WECC as subject matter experts, the MSA may utilize other subject matter experts as required.

4.7 Forbearance

If the MSA is not satisfied of a contravention, or it believes that Forbearance is appropriate, the MSA will inform the registered entity of its decision via e-mail. In some cases, the MSA may issue a conditional Forbearance [Reference AUCA s. 57(1)]. In such cases, any conditions that apply will be made clear in the Forbearance notice. For example, the MSA is likely to extend conditional Forbearance to a registered entity regarding the requirements of a particular standard if the registered entity has applied to the AESO for exemption to that Reliability Standard. In this case, the Forbearance is conditional on the exemption being granted. The requirement and completion of a Mitigation Plan (see below) may also form the basis of a conditional Forbearance.

4.8 Mitigation Plans

Unlike a company-wide Compliance Program, a Mitigation Plan has a defined scope. Mitigation Plans play an important role in ensuring that reliability concerns are resolved in a timely manner. The MSA is supportive of the role of Mitigation Plans and believes they can be an effective complement and in some cases a substitute for financial sanctions. The MSA is likely to require a Mitigation Plan if the Compliance Monitor has recommended that one is necessary. In addition, the MSA would advise registered entities to attach a Mitigation Plan to their self-reports

if a matter is serious or if the non-compliance is ongoing and cannot be corrected promptly. While a Mitigation Plan is in effect, the MSA will exercise conditional Forbearance in regards to the ongoing non-compliance condition at issue, provided that the plan is acceptable, timely and completed successfully.

4.8.1 Submitting a Mitigation Plan

Appendix E contains a Mitigation Plan Submittal Form to help registered entities meet the minimum requirements listed below. This form will be available to market participants on the MSA's website. Registered entities should submit Mitigation Plans via e-mail to both the MSA at compliance@albertamsa.ca and the AESO at rscompliance@aeso.ca. The AESO should submit Mitigation Plans to the MSA via the Compliance Data Management System (webCDMS) web page at <https://www.cdms.oati.com>.

The MSA will accept a Mitigation Plan only if it meets or exceeds the minimum requirements listed below and if it is supported by the MSA's SME. The MSA will seek the opinion of a SME as required (if the plan is of a technical nature). Should a situation arise where the MSA's SME and the registered entity's SME do not agree on significant aspects of a Mitigation Plan, the MSA will likely bring the matter forward to the AUC for a hearing. Registered entities are encouraged to submit a Mitigation Plan along with self-reported compliance matters where the non-compliance cannot be rectified promptly.

An acceptable Mitigation Plan must have the following minimum requirements:

- The registered entity's point of contact for the Mitigation Plan, who shall be a person i) responsible for filing the Mitigation Plan, ii) technically knowledgeable regarding the Mitigation Plan, and iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan.
- The name, telephone number and e-mail address of the participant or the ISO.³
- The number of the Reliability Standard and the requirement(s) that the Mitigation Plan will correct.
- A description of the contravention, including date/time, duration and cause.
- The registered entity's action plan to correct the violation(s), including any milestones and date of completion.
- Milestones (if applicable) should be no more than three months apart.
- The registered entity's action plan to prevent recurrence of the violation(s) in the future.
- The anticipated impact of the contravention on the bulk power system reliability and an action plan to mitigate associated risk to the reliability of the bulk power system while the Mitigation Plan is being implemented.
- Any other Information deemed necessary or appropriate.
- The Mitigation Plan shall be signed by an authorized representative of the registered entity (i.e. officer or legal counsel), which, if applicable, shall be the person signing the Self-Certifications or Self-Reporting submittals on behalf of the registered entity.

³ The MSA will accept an e-mail address as the contact address for the purposes of 4(9)(b) of AUC Rule 027.

In the MSA's view, the foregoing requirements also satisfy s.4.9 of AUC Rule 027. As noted in Section 6 of this document, if the above-noted requirements require amendment based on amendments to AUC Rule 027, such amendment will be considered a consequential amendment, and as such will not result in further consultation with stakeholders.

During the time the Mitigation Plan is being implemented, the registered entity will receive conditional Forbearance until the plan has been completed. The MSA will exercise its powers of Forbearance provided that the plan is acceptable, timely, and completed successfully. The MSA may still pursue enforcement action regarding non-compliance prior to the date the Mitigation Plan was adopted. The MSA intends to notify the registered entity if a Mitigation Plan has been accepted within 30 days of submission; however, in some cases, subject matter expert availability may result in a delayed response. In such cases, the MSA will notify the registered entity of the delay prior to the end of the 30 day period.

4.8.2 Completion of Milestones and Mitigation Plans

Once a Mitigation Plan has been accepted by the MSA, the registered entity is responsible for certifying that all of the milestones identified within the plan have been met on the stated dates and that the plan was completed successfully. A Milestone Update Form and Mitigation Plan completion form are available on the MSA's website (**Appendices F and G**). As applicable, completed forms must be submitted to the MSA and the Compliance Monitor within five (5) business days of the milestone or plan completion date. The MSA believes the possibility of spot checks as well as subsequent audits is sufficient incentive for registered entities to ensure successful completion of their Compliance Plans.

4.8.3 Mitigation Plan Revisions or Extensions

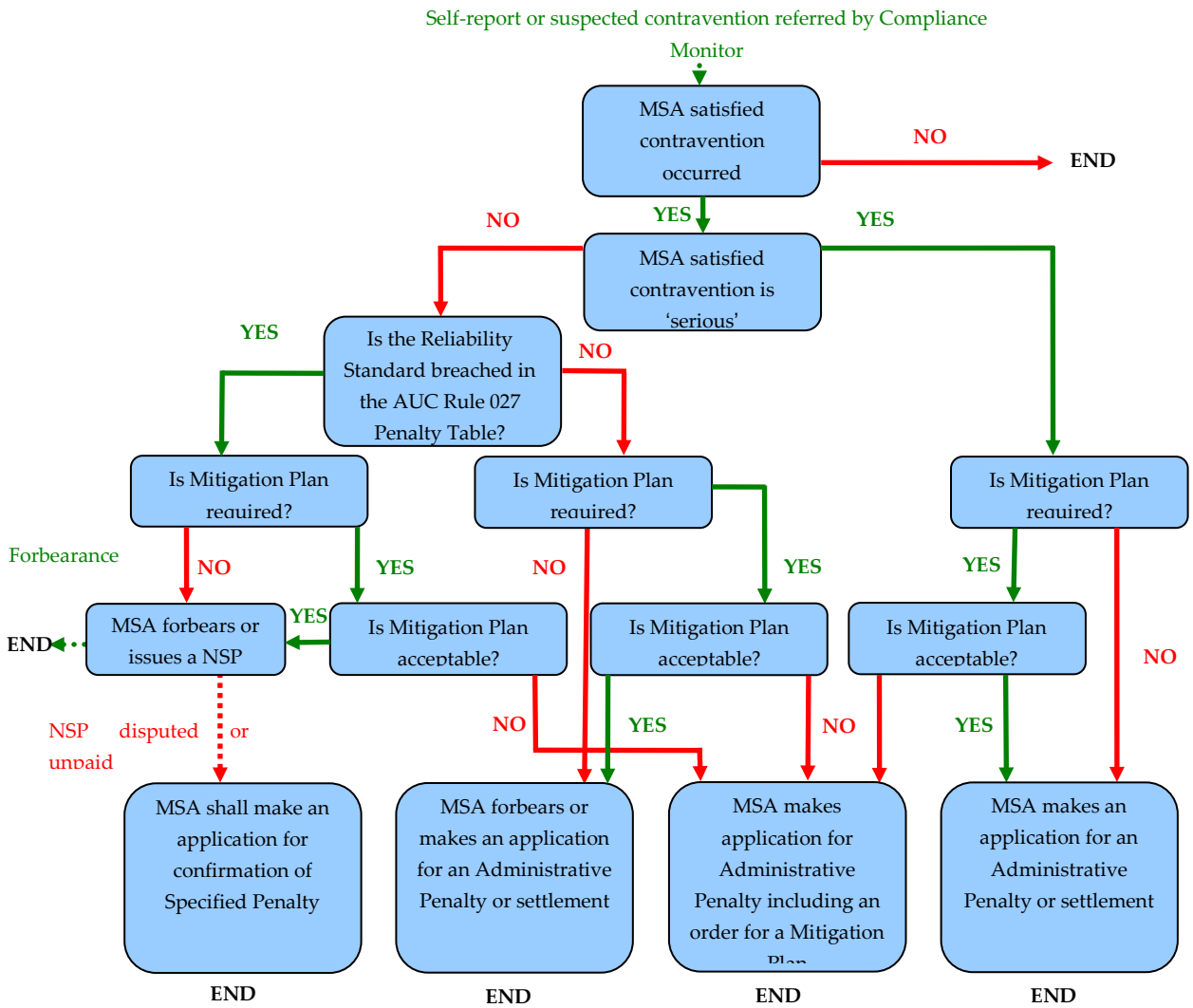
In the event a registered entity needs to revise or extend an accepted Mitigation Plan, a Mitigation Plan Extension Request Form (**Appendix H**) should be completed and submitted via e-mail to the MSA at compliance@albertamsa.ca. The registered entity shall submit any such requests at least 5 business days prior to the existing deadline. The original Mitigation Plan should be attached to the request.

4.9 Clarifications by MSA

Where a person fails or refuses to pay a Specified Penalty in accordance with the related Notice, the MSA may, prior to commencing a related hearing before the Commission, seek additional Information to confirm intent to pay or to dispute the penalty. If the party has indicated the intent to dispute, the MSA may request further Information to determine the basis of the dispute.

In all cases where the MSA seeks further Information from a person whose conduct is at issue, the MSA will notify that party as to the reason for the request.

Figure 4.1: Reliability Standards Enforcement Process



5 Administrative Enforcement Process

The MSA may choose to pursue a compliance matter under s. 51 of the AUCA by making an application to the AUC for an Administrative Penalty and when this is the case, an extended process will be applied. The MSA will typically seek an administrative penalty when the MSA deems a matter to be serious, whether or not a penalty has been specified in AUC rules in respect of a particular ISO rule or a Reliability Standard. The MSA will determine whether a matter is serious based upon the following criteria: 1) frequency of the non-compliance; 2) material market impact; 3) financial gain by the participant as a result of the non-compliance; or 4) jeopardy to reliability of the Interconnected Electric System. An application to the AUC for an administrative penalty may also be necessary in cases where no penalty has been specified for the contravention at issue. In either circumstance the MSA will inform the participant that it is applying this extended assessment process.

5.1 Preliminary Meeting (Optional)

If requested, the MSA may provide a preliminary meeting to discuss the matter and allow the participant to respond to any questions resulting from our preliminary review. This would be an opportunity for the participant to provide any new Information that may have been unavailable at an earlier stage and to bring forward any process questions or concerns. The market participant may decline the opportunity to have a meeting if it wishes to do so. In either case, the MSA requires that any Information provided in response to our questions be in written form.

5.2 MSA Internal Review

Based upon the Information supplied by the Compliance Monitor and any additional Information provided by the participant, the MSA staff will conduct a detailed review of the Information gathered. Based on this review, MSA staff will consider whether to Forbear or to continue to pursue a penalty. Should the MSA choose to Forbear, it will inform the market participant of its decision in writing. Should the MSA choose not to Forbear, the MSA will prepare a summary of facts and findings and provide the market participant with reasonable opportunity to provide feedback in respect of those findings.

5.3 Final Meeting (Optional)

If requested, the MSA may provide a meeting to review the summary of facts and findings prepared by the MSA and discuss views regarding settlement of the matter. At this point, the market participant has a final opportunity to provide Information of relevance to the MSA's findings prior to a decision being made. The MSA requires that any Information provided in response to the findings be in written form.

5.4 MSA Decision

Based on the MSA's summary of facts and findings and further Information provided by the market participant, the MSA will decide whether to Forbear or to pursue a penalty. The MSA will communicate its decision to the participant in writing.

5.5 Settlement Agreement (Optional)

Section 44 of the AUCA provides that the MSA may negotiate a settlement with a market participant to resolve any matter relating to the mandate of the MSA. The MSA believes a settlement agreement is preferable to a contested proceeding, from the perspective of efficiency and costs. Any settlement agreement must be filed with the AUC for approval.

5.6 Request for an AUC Hearing or Other Proceeding

Should the parties be unwilling or unable to reach a settlement agreement, the MSA may file an application for a hearing before the AUC. Section 51(2) of the AUCA sets out the form of the application. The form and manner of the hearing or other proceeding is determined by the AUC in accordance with its rules (Section 53 of the AUCA). Section 56 and 63 describe the form of order the Commission may impose, which may include administrative penalties and/or terms and conditions considered appropriate.

6 Amendments

Consequential amendments or other non-material changes to this document may be required from time to time as a result of changes to related enactments. The MSA does not intend to conduct stakeholder consultations in respect of such amendments.

References

Statutes and Regulations

Alberta Electric Utilities Act, Chapter E-5.1 (2003)

<http://www.qp.alberta.ca/documents/Acts/E05P1.pdf>

Alberta Utilities Commission Act, Chapter A-37.2 (2007)

<http://www.qp.alberta.ca/documents/Acts/A37P2.pdf>

Electric Statutes Amendment Act (2009)

http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_27/session_2/20090210_bill-050.pdf

Transmission Regulation AR 86 (2007)

http://www.qp.alberta.ca/documents/Regs/2007_086.pdf

Alberta Utilities Commission

AUC Rules

<http://www.auc.ab.ca/acts-regulations-and-auc-rules/rules/Pages/default.aspx>

Alberta Electric System Operator

Market Participation Rules

<http://www.aeso.ca/rulesprocedures/18592.html>

Reliability Standards effective in Alberta

<http://www.aeso.ca/rulesprocedures/17006.html>

Alberta Reliability Standards Compliance Monitoring Program

<http://www.aeso.ca/assets/Uploads/ARS-CMP-Final-v1.1.pdf>

WECC – AESO Membership and Operating Agreement

<http://www.auc.ab.ca/applications/orders/utility-orders/Utility%20Orders/2008/U2008-261.pdf>

<http://www.auc.ab.ca/applications/decisions/Decisions/2010/2010-152.pdf>

Market Surveillance Administrator

MSA – WECC Service Level Agreement

http://albertamsa.ca/uploads/pdf/Archive/Services_Agreement_MSA-WECC_041910.pdf

Appendix A: ISO Rules Self-Reporting Form

ISO RULES SELF-REPORTING FORM			
Submission Date:			
MARKET PARTICIPANT INFORMATION			
Market Participant Name:		Name of the Senior Executive of the Business Unit:	
Market Participant Contact Name:		Title of the Senior Executive of the Business Unit:	
Contact Phone Number:		Email of the Senior Executive of the Business Unit:	
Contact Email:		Market Participant Address:	
Do you have a compliance program in place?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
CONTRAVENTION INFORMATION			
Asset ID (If applicable):		Date of Contravention:	
ISO Rule Number:		Attachments included:	<input type="checkbox"/> YES <input type="checkbox"/> NO
Describe the contravention, including time and duration:			
Provide any other information that you consider to be relevant, including any mitigating circumstances:			
SIGNATURES			
<i>I acknowledge that this contravention did occur.</i>			
Signature:			
Name:		Title:	
<i>I acknowledge that the above stated facts are true.</i>			
Signature:		Signature Date:	
Name:		Title:	

Appendix B: Notice of Specified Penalty (ISO Rules)

NOTICE OF SPECIFIED PENALTY			
Date of Issue:		Payment Due Date:	
MSA File Number:		Specified Penalty Amount:	
Market Participant Name:			
Asset ID (if applicable):		Self Report	<input type="checkbox"/> YES <input type="checkbox"/> NO
ISO Rule:		Date of Contravention:	
Date of Referral/Self Report:		This is the XX contravention by this asset for this rule within a rolling 12 month period.	
EVENT DETAILS			
FINDINGS			
Based upon the information obtained by the MSA, the MSA is satisfied that the event was a contravention of ISO rule XX.			
MATERIAL FACTS			
The material facts relied upon by the MSA include the following: 1.			
DELIVERY OF PAYMENT			
Payment by cheque or certified funds is to be made out to the "General Revenue Fund c/o Minister of Finance", and delivered to the Alberta Utilities Commission (AUC) at: 4th Floor, 425 - 1st Street S.W., Calgary, Alberta, T2P 3L8. Questions in respect of delivery of payment should be addressed to the Director of Finance, AUC. The payment should reference this notice and related MSA File #. Delivery of payment should also be confirmed by email to compliance@albertamsa.ca , with copy to the following AUC personnel:			
NOTICE			
The Market Surveillance Administrator (MSA) is granted the power and authority under s. 52 of the <i>Alberta Utilities Commission Act</i> to issue a Notice of Specified Penalty where the MSA is satisfied that a person has contravened an ISO rule. Specified penalties are set out in AUC Rule 019.			
In accordance with the relevant enactments and rules, a dispute regarding the issuance of a Notice of Specified Penalty or failure to pay the specified penalty in accordance with this notice will result in a hearing or other proceeding before the AUC.			
In accordance with s. 5(1) of AUC Rule 019 this Notice of Specified Penalty will be made public no earlier than receipt of confirmation of payment by the AUC and no later than 45 days after issuance. The MSA will, if applicable, also post on its website the link to any decision of the AUC respecting the specified penalty.			
If your organization disputes the issuance of this Notice of Specified Penalty, or if you have any other questions or comments regarding this matter, please contact the MSA compliance team at compliance@albertamsa.ca .			
SIGNATURE			
Signature:		Signature Date:	
Name:		Title:	

Appendix C: Reliability Standards Self-Reporting Form

RELIABILITY STANDARDS SELF-REPORTING FORM			
Submission Date:			
MARKET PARTICIPANT INFORMATION			
Registered Entity Name:		Name of the Senior Executive of the Business Unit:	
Registered Entity Contact Name:		Title of the Senior Executive of the Business Unit:	
Contact Phone Number:		Email of the Senior Executive of the Business Unit:	
Contact Email:		Registered Entity Address:	
Do you have a compliance program in place?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
CONTRAVENTION INFORMATION			
Date of Contravention:		Is this Contravention Still Occurring?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Standard Number:		Requirement:	
Is there a mitigation plan already in place for this standard?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Attachments included:	<input type="checkbox"/> YES <input type="checkbox"/> NO
To the best of your knowledge, indicate the potential impact to the Bulk Power System:		<input type="checkbox"/> Minimal <input type="checkbox"/> Moderate <input type="checkbox"/> Severe	
Describe the contravention, including time and duration:			
To the best of your knowledge, describe the reliability impact of this contravention:			
Provide any other information that you consider to be relevant, including any mitigating circumstances:			
SIGNATURES			
<i>I acknowledge that this contravention did occur.</i>			
Signature:		Signature Date:	
Name:		Title:	
<i>I acknowledge that the above stated facts are true.</i>			
Signature:		Signature Date:	
Name:		Title:	

Appendix D: Notice of Specified Penalty (Reliability Standards)

NOTICE OF SPECIFIED PENALTY			
Date of Issue:		Payment Due Date:	
MSA File Number:		Specified Penalty Amount:	
Registered Entity Name:			
Reliability Standard :		Self Report	<input type="checkbox"/> YES <input type="checkbox"/> NO
Requirement:		Accepted Mitigation Plan:	<input type="checkbox"/> YES <input type="checkbox"/> NO
Date of Referral/Self Report:		Date of Contravention:	
EVENT DETAILS			
FINDINGS			
Based upon the information obtained by the MSA, the MSA is satisfied that the event was a contravention of Reliability Standard , requirement .			
MATERIAL FACTS			
The material facts relied upon by the MSA include the following:			
<ol style="list-style-type: none"> 1. 2. 			
DELIVERY OF PAYMENT			
Payment by cheque or certified funds is to be made out to the "General Revenue Fund c/o Minister of Finance", and delivered to the Alberta Utilities Commission (AUC) at: 4th Floor, 425 - 1st Street S.W., Calgary, Alberta, T2P 3L8. Questions in respect of delivery of payment should be addressed to the Director of Finance, AUC. The payment should reference this notice and related MSA File #. Delivery of payment should also be confirmed by email to compliance@albertamsa.ca , with copy to the following AUC personnel:			
NOTICE			
The Market Surveillance Administrator (MSA) is granted the power and authority under s. 52 of the <i>Alberta Utilities Commission Act</i> to issue a Notice of Specified Penalty where the MSA is satisfied that a person has contravened a reliability standard. Specified penalties are set out in AUC Rule 027.			
In accordance with the relevant enactments and rules, a dispute regarding the issuance of a Notice of Specified Penalty or failure to pay the specified penalty in accordance with this notice will result in a hearing or other proceeding before the AUC.			
In accordance with s. 5(1) of AUC Rule 027 this Notice of Specified Penalty will be made public no earlier than receipt of confirmation of payment by the AUC and no later than 45 days after issuance. The MSA will, if applicable, also post on its website the link to any decision of the AUC respecting the specified penalty.			
If your organization disputes the issuance of this Notice of Specified Penalty, or if you have any other questions or comments regarding this matter, please contact the MSA compliance team at compliance@albertamsa.ca .			
SIGNATURE			
Signature:		Signature Date:	
Name:		Title:	

Appendix E: Mitigation Plan Submittal Form

MITIGATION PLAN SUBMITTAL FORM																					
Submission Date:		<input type="checkbox"/> New or <input type="checkbox"/> Revised																			
If this Mitigation Plan has already been completed check this box: <input type="checkbox"/>		Completion Date: (if applicable)																			
SECTION A: MARKET PARTICIPANT INFORMATION																					
Registered Entity Name:		Contact Phone Number:																			
Registered Entity Contact Person :		Contact Email:																			
Title of Contact:																					
SECTION B: RELIABILITY STANDARD VIOLATION INFORMATION																					
This Mitigation Plan is associated with the alleged or confirmed violation(s) of the reliability standard/requirement(s) listed below:																					
Standard Number: (e.g. FAC-001_AB-0)]																					
Requirement:																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;">Requirement Violated</th> <th style="width: 25%;">Violation Date (*)</th> <th style="width: 40%;">Method of Detection (i.e. audit, self-report, investigation)</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>				Requirement Violated	Violation Date (*)	Method of Detection (i.e. audit, self-report, investigation)															
Requirement Violated	Violation Date (*)	Method of Detection (i.e. audit, self-report, investigation)																			
(*) Note: The Violation Date shall be: (i) the date of the contravention occurred or began.																					
Describe the contravention, including time, duration and cause:																					
Provide any other information that you consider to be relevant regarding the alleged or confirmed violations associated with this Mitigation Plan:																					
SECTION C: MITIGATION PLAN CONTENTS																					
Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation plan has already been completed, to correct the violations identified in Part B of this form:																					
If this plan has already been completed please proceed to Part F of this form																					
SECTION D: MITIGATION PLAN TIMELINE AND MILESTONES																					
Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected:																					

MITIGATION PLAN SUBMITTAL FORM	
Enter Milestone Activities, with the completion dates, that your organization is proposing for this Mitigation Plan:	
Milestone Activity	Proposed Completion Date*
(*) Implementation milestones should be no more than three months apart for Mitigation Plans with expected completion dates more than three months from the date of submission.	
Provide any other relevant additional information that you wish to include regarding the Mitigation Plan, milestones, milestone dates and the completion date proposed above:	
SECTION E: INTERIM AND FUTURE RELIABILITY RISKS	
While your organization is implementing the proposed Mitigation Plan, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are known, reasonably suspected or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Pan is being implemented:	
SECTION F: FUTURE RELIABILITY RISKS	
Describe how successful completion of this Mitigation Plan has or will prevent or minimize the probability that your organization will incur further violations of the same or similar reliability standards requirements in the future:	
Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part B, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:	
SECTION G: ADDITIONAL INFORMATION AND ATTACHEMENTS	
Additional detailed information may be provided as an attachment for any of the above sections. Please check whether or not any attachments have been included:	<input type="checkbox"/> YES <input type="checkbox"/> NO
Please provide any other additional comments or relevant information not previously addressed in this form:	
SECTION H: AUTHORIZATION	
An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:	
a) Submits the Mitigation Plan, as laid out in this form, to the MSA for acceptance, and b) If applicable, certifies that the Mitigation Plan, as laid out in this form, was completed on or before the date provided as the 'Date of Completion of the Mitigation Plan; on this form, and c) Acknowledges <ol style="list-style-type: none"> 1. I am [Title] of [Organization] . 2. I am qualified to sign this Mitigation Plan on behalf of [Organization]. 3. I have read understand [Organization] obligations to comply with the Mitigation Plan's requirements as well as but not limited to, the Compliance Monitoring and Enforcement Program. 4. I have read and am familiar with the contents of the foregoing Mitigation plan. 5. [Organization] agrees to be bound by, and comply with the Mitigation Plan, including the timetable completion date, as approved by the MSA. 	

MITIGATION PLAN SUBMITTAL FORM			
Authorized Signature: (Electronic Signatures are accepted)			
Name:			
Title:		Date:	

Appendix F: Milestone Update Form

MILESTONE UPDATE FORM			
Submission Date:			
REGISTERED ENTITY INFORMATION			
Registered Entity Name:		Contact Phone Number:	
Registered Entity Contact Name:		Contact Email:	
MITIGATION PLAN / MILESTONE INFORMATION			
Standard Number:		Date Original Mitigation Plan was Accepted:	
Requirement Number(s)		Date Original Mitigation Plan was Scheduled to be Complete:	
Please Provide details of the milestone activity and the progress that has been made.			
Milestone Activity	Milestone Progress Notes	Milestones Completion Date	
(*)Note: Implementation milestones no more than three (3) months apart are permissible only for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional contraventions could be determined for not completing work associated with accepted milestones.			
Additional detailed information may be provided as an attachment as necessary. <input type="checkbox"/> YES <input type="checkbox"/> NO			
Additional Comments:			
SIGNATURES			
<i>I acknowledge that this contravention did occur and the above stated facts are true.</i>		Signature Date:	
Signature:		Title:	
Name:			

Appendix G: Mitigation Plan Completion Form

MITIGATION PLAN COMPLETION FORM			
Upon completing implementation of the Mitigation Plan, the registered entity must provide attestation to the MSA that all required actions described in the Mitigation Plan have been completed.			
Submission Date:			
REGISTERED ENTITY INFORMATION			
Registered Entity Name:		Contact Phone Number:	
Registered Entity Contact Name:		Contact Email:	
MITIGATION PLAN DETAILS			
Standard Number:		Date Mitigation Plan was scheduled to be completed:	
Requirement Number(s)		Date Mitigation Plan was actually completed:	
Additional Comments:			
SIGNATURES			
<i>I affirm that the Mitigation Plan for the above named violation has been completed on the date shown above and that all submitted information is complete and correct to the best of my knowledge.</i>			
Signature:		Signature Date:	
Name:		Title:	

Appendix H: Mitigation Plan Extension Request Form

MITIGATION PLAN EXTENSION REQUEST FORM			
Submission Date:			
REGISTERED ENTITY INFORMATION			
Registered Entity Name:		Contact Phone Number:	
Registered Entity Contact Name:		Contact Email:	
MITIGATION PLAN INFORMATION			
Standard Number:		Date Original Mitigation Plan was Accepted:	
Requirement Number(s)		Date Original Mitigation Plan was Scheduled to be Complete:	
EXTENSION REQUEST REQUIREMENTS			
Identify the reason an extension is being requested:			
Provide detailed information as to why the original completion date will not be met:			
Check box to confirm that the original mitigation plan is attached <input type="checkbox"/>			
SIGNATURES			
<i>I acknowledge that this contravention did occur and the above stated facts are true.</i>		Signature Date:	
Signature:		Title:	
Name:			

Appendix I: Rules Relevant to MSA Enforcement Processes

The MSA's compliance enforcement processes interrelate with certain statutes. These are as follows:

AUC Rule 013 - Rules on Criteria Relating to the Imposition of Administrative Penalties

AUC Rule 013, as amended from time to time, outlines specific criteria that the AUC considers in its assessment of matters brought forward to it for consideration and subject to administrative penalty. Rule 013 includes both aggravating and mitigating factors that are considered in this process. The MSA looks to Rule 013 for general guidance and principles in its enforcement activities.

AUC Rule 015 - Rules on Costs of Investigations, Hearings, or Other Proceedings Related to Contraventions

AUC Rule 015, as amended from time to time, provides guidelines on recovery of costs in respect of a hearing or other proceeding. The MSA may in certain circumstances file an application with the AUC pursuant to the recovery of its costs in an enforcement hearing or other proceeding.

AUC Rule 019 - Specified Penalties for Contravention of ISO Rules

AUC Rule 019, as amended from time to time, provides direction to the MSA and to market participants in respect of the issuance of Specified Penalties for contravention of ISO rules. Rule 019 defines specific categories of ISO rules and the applicable Specified Penalties for their contravention. With respect to participants, Rule 019 directs how a rule contravention can be self-reported and provides an incentive to do so.

AUC Rule 027 – Specified Penalties for Contravention of Reliability Standards

AUC Rule 027, as amended from time to time, is analogous to Rule 019 and applies to the MSA's mandate of enforcement regarding compliance with the Alberta Reliability Standards. Rule 027 defines specific categories of Alberta Reliability Standards and the applicable Specified Penalties for their contravention. Rule 027 also directs how a contravention can be self-reported and provides incentives for self-reporting and mitigation.

ISO Rule 103.12 – ISO Compliance Monitoring

ISO Rule 103.12 describes the processes and principles guiding the AESO in monitoring the compliance of participants with applicable rules and standards.