

**NERC**

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

# The Compliance Enforcement Initiative and Enforcement Discretion

Ed Kichline

NERC Manager of Enforcement Processing

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**RELIABILITY | ACCOUNTABILITY**



- All six Find, Fix, and Track (FFT) filings submitted to FERC from September 2011 to February 2012 were approved in the March 15, 2012 Order
- Six-month and one-year status reports due to FERC
  - Six-month report due May 14, 2012
  - One-year report due in March 2013 – Commission will consider changes to the March 15 Order conditions
- A compliance filing also is due May 14, 2012 related to compliance history and further implementation

- Conditions related to eligibility for FFT treatment
  - Prospectively, only Possible Violations that pose a minimal risk are eligible
  - If an FFT matter is not mitigated as certified, it will be treated as a continuing Possible Violation not eligible for FFT treatment

- Conditions related to Documentation
  - A registered entity that receives FFT treatment must certify that mitigation is completed
- Condition related to Accountability and Deterrence
  - FFT informational filings must publicly identify the registered entity with a Possible Violation.
    - Exception for CIP violations remains

- An FFT matter will be closed 60 days after the FFT informational filing is submitted to FERC
- FERC will not reopen it for review unless it provides notice that it will review a specific matter
- Within the 60-day window, FERC expects to exercise review infrequently and in limited and rare circumstances
  - Insufficient mitigation
  - Greater than minimal risk
  - Pattern of non-compliance

- NERC may extend FFT discretion to compliance monitoring
  - Training and qualification of personnel
  - Coordination and collaboration among regions
  - Consistency in application

- No adverse impact  $\neq$  minimal risk
  - However, other factors may lead to minimal risk
- Do not base risk assessments on assumptions
  - Stick to the facts
- Programmatic shortcomings  $\neq$  minimal risk

- Assess risk at the time of the possible violation
- Existing processes and contemporaneous actions can make actual risk < potential risk



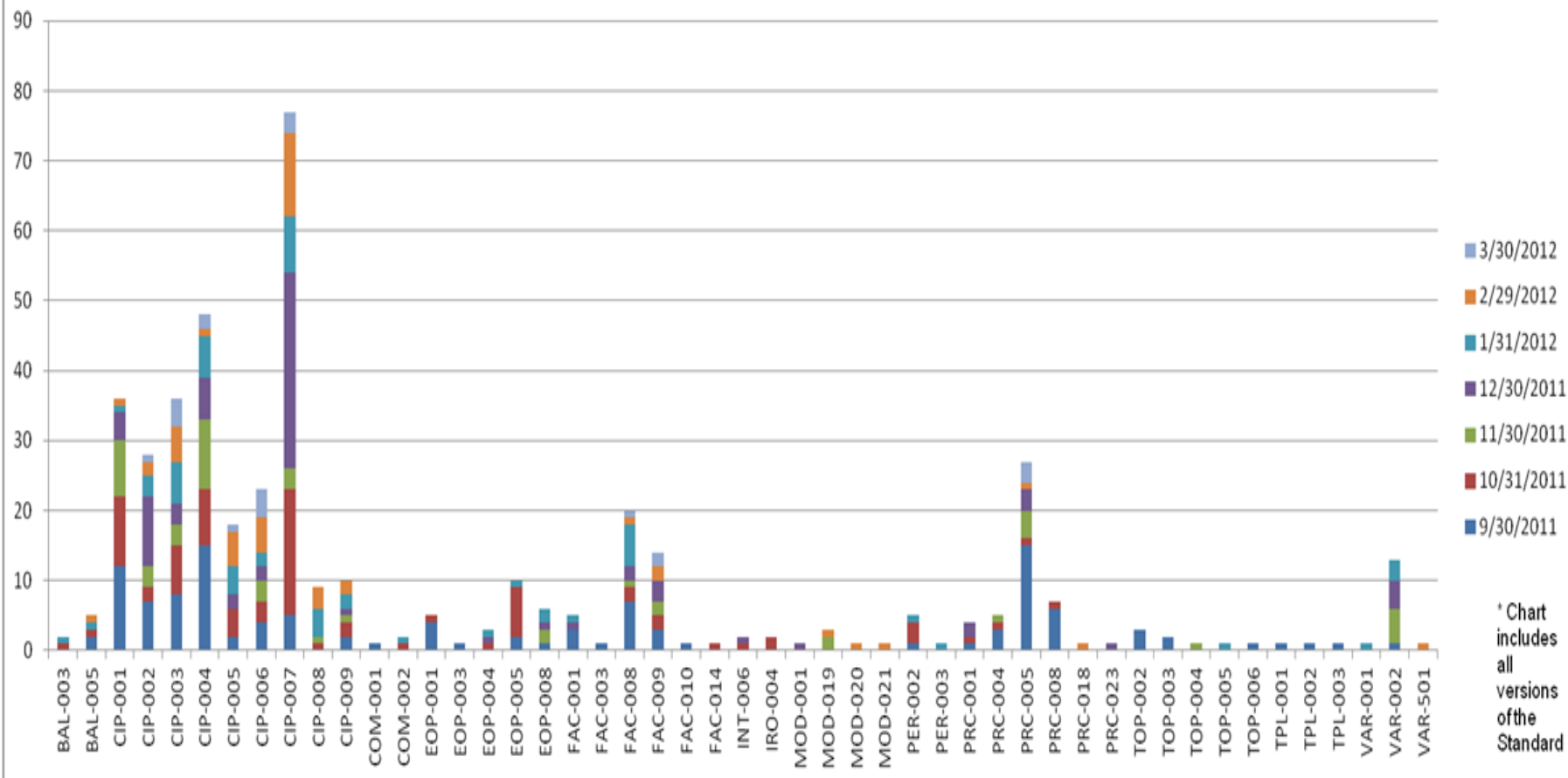
- NERC's "Guidance for Self-Reports" available on its website
  - Provide complete information early in process
- FFT should promote better internal reviews and self-reporting
  - Percentage of self-identified violations should continue to grow
- Move compliance monitoring responsibilities and decisions on disposition to earlier points
  - Demonstrable cultures of compliance and internal controls

- Expectations for increased compliance as experience with mandatory Reliability Standards grows
- Likelihood of higher average penalties as minimal risk violations do not receive sanctions
- Serious treatment for violations that should have been self-identified
- The ERO and registered entities must continue to perform in order to exercise additional discretion

- FERC and the ERO will randomly sample FFTs
- Certification of completion of mitigating activities
- Unmitigated issues become ineligible for FFT

- FFT may highlight requirements that do little to protect reliability
  - Removing requirements = greater compliance efficiency
- Identification of requirements for revision or removal
  - Concurrent submittals to FERC

**FFT Standard Breakdown**  
 (September 2011 - March 2012)



\* Chart includes all versions of the Standard

## BAL-003

**Issue:** For six hours, the Automatic Generation Control was operated in Constant Frequency mode rather than Tie Line Bias mode; discovered through self-report.

**Risk:** The improper mode did not result in undue deviation in the system frequency, **which was being monitored by the entity's Energy Management System (EMS) operators.**

**Mitigation:** Revised procedures for displaying Area Control Error (ACE) and controlling ACE during Automatic Generation Control (AGC) switching.

## CIP-001

**Issue:** Emergency Response Plan did not explicitly provide for sabotage response guidelines; found at audit.

**Risk:** Informal procedures existed, and entity does not own any Bulk Electric System elements.

**Mitigation:** Updated current procedure and retrained all personnel.

## CIP-004

**Issue:** Personnel Risk Assessment (PRAs) not completed within 30 days of granting access to Critical Cyber Assets; found at spot check.

**Risk:** Delays only ranged from one to five days; affected individuals were long-standing employees who had received background checks on hiring.

**Mitigation:** Entity completed the PRAs and addressed gaps in its PRA program.



## CIP-006

**Issue:** Entity failed to include all Critical Assets located within an Electronic Security Perimeter (ESP) within the six-wall border of a Physical Security Perimeter (PSP); found at spot check

**Risk:** Multiple layers of physical security protected access to the PSP.

**Mitigation:** Entity secured the six-wall border of the PSP before conclusion of the spot check.

## CIP-007

**Issue:** Entity did not have a patch management procedure in place and updates were not documented; discovered through self-report.

**Risk:** Patches *were* performed informally using an application to identify vulnerabilities in third-party applications.

**Mitigation:** Ticket tracking system put in place and documented; all devices and updates now tracked and documented.

## PRC-005

**Issue:** Entity could not provide basis for maintenance and testing intervals for Protection System devices; found at audit.

**Risk:** Entity did have intervals in the program, but only failed to document the basis; performed testing in accordance with the intervals.

**Mitigation:** Entity added the basis for its maintenance and testing intervals to its program.

## PRC-001

**Issue:** Substation tech disabled primary and backup relaying on a 345 kV line in the adjacent panel when drilling without notifying its TOP; discovered through self-report.

**Risk:** Relaying was disabled four minutes prior to notifying the registered TOP, but high-speed clearing of the fault still would have occurred because only a portion of the protection system was disabled. Moderate risk to Bulk Power System reliability.

**Mitigation:** Operating personnel were retrained on proper notification procedures.

- Mostly self-identified issues
- Lesser risk to Bulk Electric System (BES) elements
- Informal/automatic procedures existed
- Very few devices excluded
- Operated within good utility practice
- Short duration/promptly corrected
- Backup protection/process in place
- Trusted/experienced employee
- No event occurred during violation period

- Enforcement is evolving to focus resources on the highest-risk violations
  - Everyone benefits from more efficient disposition
- Registered entities can affect disposition of their possible violations based on their internal controls and the information they provide to the ERO
- Enforcement discretion can grow with the continued positive participation of registered entities, the ERO, and FERC

**Ed Kichline**

Manager of Enforcement Processing

(202) 400-3025

[ed.kichline@nerc.net](mailto:ed.kichline@nerc.net)

