

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NERC's Compliance Enforcement Initiative *Find, Fix, Track and Report Update*

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Corporate and Regulatory Matters

March 26, 2012

RELIABILITY | ACCOUNTABILITY



- All six 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 15th Order conditions.
- A compliance filing also is due May 14, 2012 related to compliance history and Phase II.

- 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. FERC will require a registered entity to submit to the Regional Entity an affidavit, signed by an officer with knowledge of the remediation, certifying that the statement is true and correct.
 - NERC must explain how a registered entity's compliance history was considered in designating a Possible Violation as an FFT.

- Condition related to Accountability and Deterrence
 - FFT informational filings must publicly identify the registered entity with a Possible Violation.
 - However, there is an exception for public release to the extent the Possible Violation relates to a Cybersecurity Incident or release would jeopardize the security of the bulk power system.

- An FFT matter will be closed sixty 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 sixty day window, FERC expects to exercise review infrequently and in limited and rare circumstances.
 - For example, where the described remedial action does not appear to mitigate the issue; where an event appears to pose more than minimal risk; where there was a pattern of non-compliance and there is not adequate explanation for FFT treatment.

- The compliance filing is due May 14, 2012 and must address issues related to compliance history and Phase II.
- NERC must explain:
 - how NERC and Regional Entities will evaluate a registered entity's compliance history; and
 - how it will be considered in deciding if FFT treatment is warranted.
- Principles and examples must be provided.

- NERC may proceed with Phase II.
- In the May 14 compliance filing, NERC must provide additional information on how it will implement Phase II of the FFT proposal. NERC must
 - Describe how personnel will be trained and provide training materials;
 - Explain the procedures for coordination and collaboration;
 - Explain how consistent treatment will be obtained; and
 - Describe the process for certification or qualification of specific personnel to participate in eligibility determinations.

- A Registered Entity may opt out of FFT processing.
- Upon correction and submittal of FFT filing, the Possible Violation becomes a Remediated Issue.
 - No penalty or sanction is assigned.
 - Formal Mitigation Plans will not be required.
 - Mitigating activity completion may be verified anytime.
- Violations are final 60 days after submittal to FERC unless there is cause to open for review.

- Violations found not to have been mitigated will be treated as continuing violations not eligible for further FFT treatment.
- Remediated Issues become part of a Registered Entity's compliance history.
 - Remediated Issues may not be contested in subsequent enforcement actions.

- First, a Possible Violation does not pose a minimal risk simply because there was no adverse impact to the bulk power system during the period of the Possible Violation.
 - However, the order clarifies that a Possible Violation may qualify for FFT if other factors that mitigated the risk are explained.
- Second, risk assessments included in FFT informational filings must be based on facts, rather than assumptions.

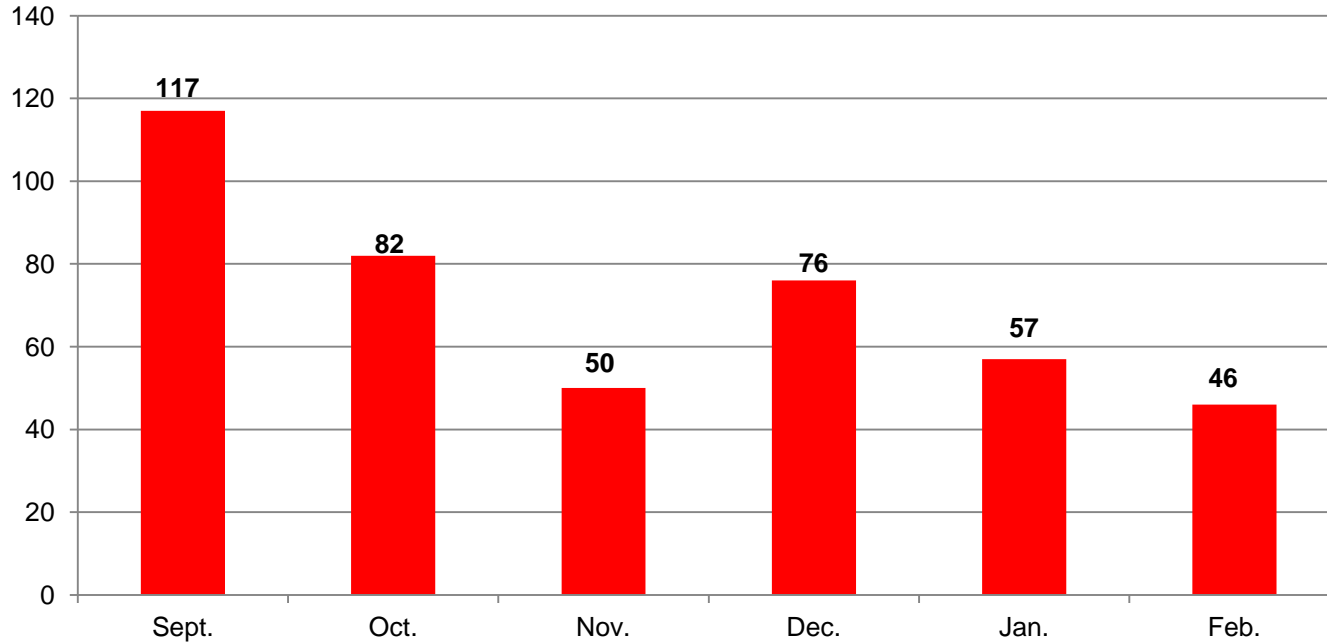
- Third, FERC will not view a Possible Violation as posing minimal risk if it reveals a serious shortcoming in a registered entity's reliability-related processes.
- Finally, risk assessments must be based on facts at the time of the Possible Violation, not on facts that develop later.
 - Focus assessments on risk during the Possible Violation.
- In addition, FERC “will be inclined to accept risk assessments that examine whether a registered entity used processes or took actions to that made the actual risk of a Possible Violation less than its potential risk.”

- The data listed in NERC’s “Guidance for Self Reports” are sufficient information to meet documentation needs for FFT treatment.
- FERC does not want the FFT mechanism to be a reason for registered entities to be less vigilant in internal reviews and self-reporting.
 - Such a reaction would be inconsistent with FERC’s desire to create a culture of compliance.
- FERC will use the twelve month report to determine the impact of FFT on self-reports, if any.

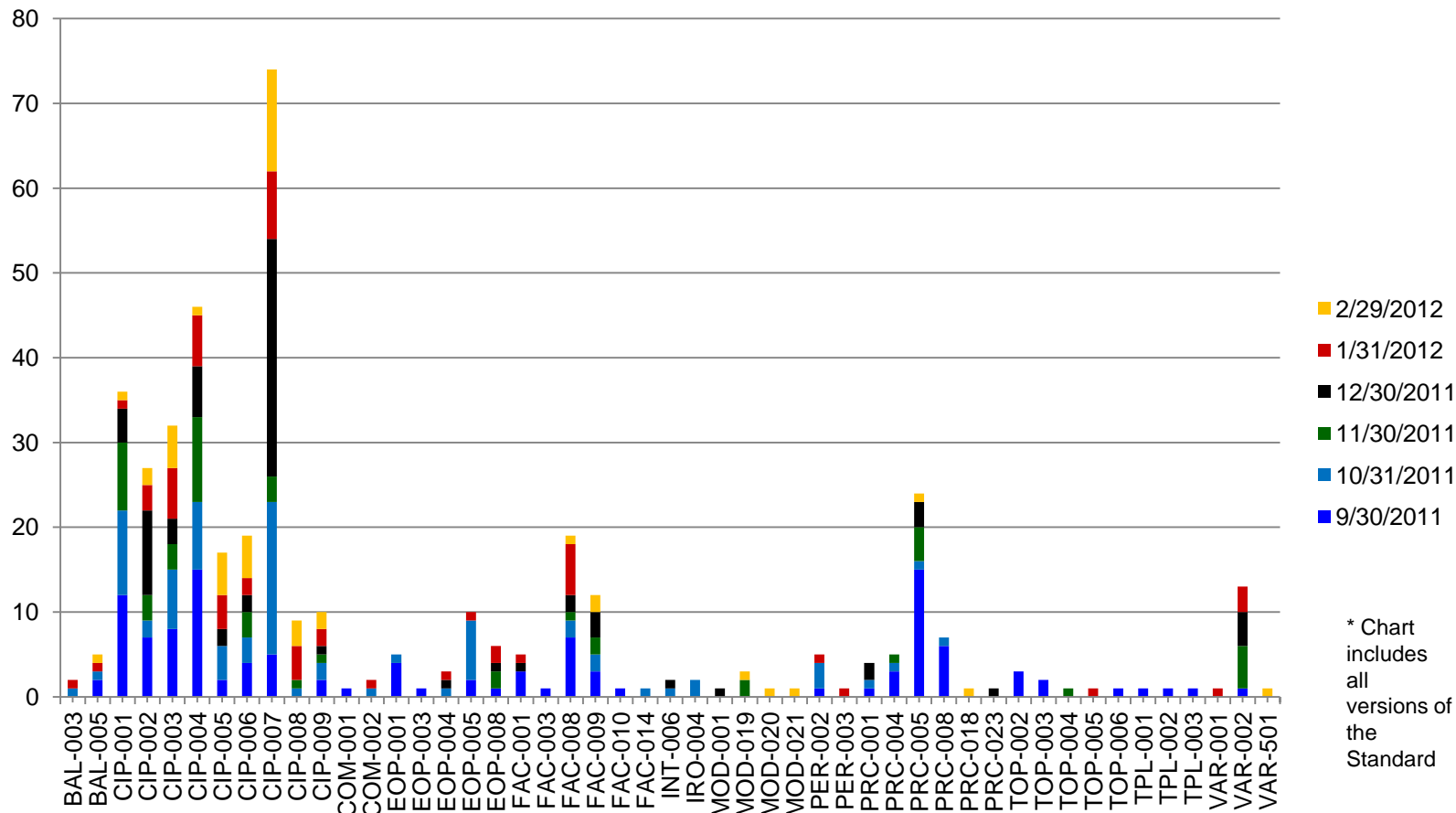
- Each year FERC will survey a random sample of FFTs to determine if the program is accomplishing its goals.
- The survey will evaluate the effectiveness of the program on a continuing basis.
- FERC will not reopen Possible Violations reviewed in the random sampling, absent discovery of a material misrepresentation.
- No additional documentation requirements are imposed.

- The Order invites NERC, Regional Entities and interested entities to propose mechanisms to identify and revise or remove unnecessary or redundant requirements from Commission-approved reliability standards.
- No deadline is imposed on when the comments should be submitted.
- FERC requests that NERC, Regional Entities and interested entities coordinate to submit comments concurrently.

FFTs by Month
(September 2011 - February 2012)



FFT Standard Breakdown (September 2011 - February 2012)



* Chart includes all versions of the Standard

