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# Compliance Enforcement Initiative Update: The Next Steps for Registered Entities

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- FERC's March 15, 2012 Order
- NERC's May 14, 2012 Status Report and Compliance Filing
- Self-Monitoring and Self-Reporting
- Guidance on Risk Assessments
- One-Year Report on CEI Due March 15, 2013
- Roles of Registered Entities

- All six FFT filings submitted to FERC from September, 2011 to February, 2012 were approved in the March 15, 2012 Order.
- Six-month report and compliance filing related to compliance history and further implementation made May 14, 2012.
- One-year report due in March 2013 – Commission will consider changes to the March 15<sup>th</sup> Order conditions.

- 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.
  - March and April filings now closed.
- FERC will not reopen an FFT 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.

- 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.



- Sustainability and Expandability of the CEI.
- Compliance History as a Factor in Considering FFT Treatment.
- Future CEI Implementation.

- First step for expansion – to have recommendations from compliance monitoring staff regarding the disposition of certain possible violations as FFTs.
- Ongoing and consistent training:
  - Training and outreach sessions for Regions' enforcement and compliance staff on recommendations for the processing track.
  - Expandability not only in who may recommend potential FFT issues, but also in the effectiveness of the program.
- Goal is to identify minimal risk issues as early as possible.

# Compliance History as a Factor in Considering FFT Treatment

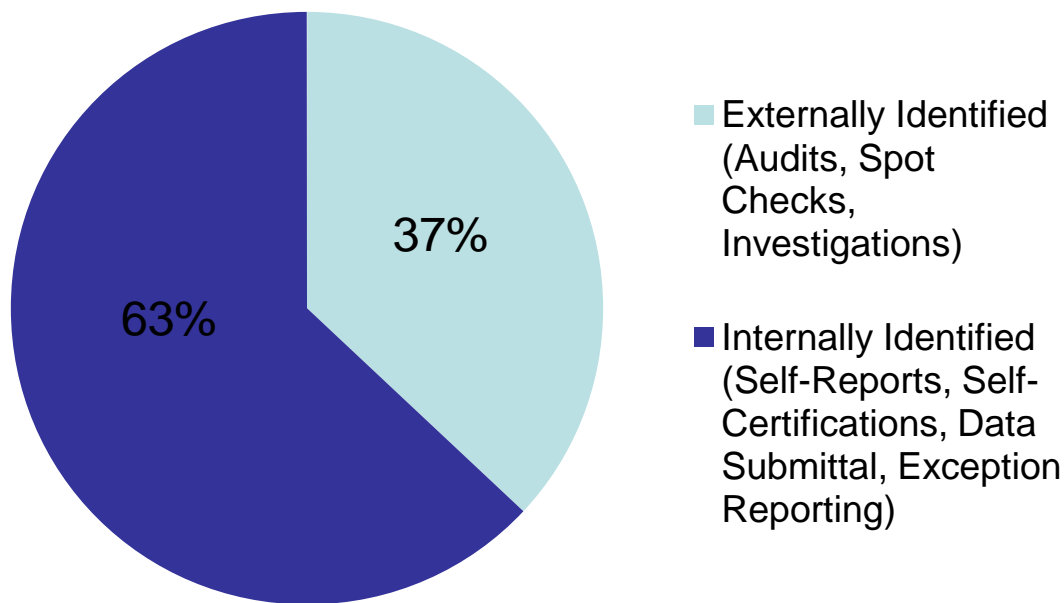
- Repeat issues are eligible for FFT provided that the issues pose only a minimal risk to reliability of the BPS.
- Factors include (a) timing of violations/issues, (b) nature of violations/issues, and (c) method of discovery.
- Issues that would NOT be afforded FFT treatment:
  - Where entity's compliance history is indicative of broader concerns.
  - Where prior remediated issue was subsequently found not to have been mitigated.
  - Cases involving material misrepresentations about the nature and scope of the prior issue.

- Training and Outreach Activities – NERC hosts various workshops and training opportunities for Regions and registered entities. Specific CEI training will be provided to CEA staff on the consistent implementation of the FFT program.
- Coordination and Collaboration – Compliance monitoring staff will make recommendations on the processing track.
- Consistency and Due Process.

- The Regional Entities and NERC continue to work on plans for improvement of compliance monitoring and enforcement.
- NERC will conduct focus groups with registered entities to solicit feedback and input.
- Submit comments on CEI to [ceicomments@nerc.net](mailto:ceicomments@nerc.net).
  - Process improvements.
  - Differences between FFT processing and violation processing.

- Self-Identified Violations Remain Strong.
- Improvement in Processing Efficiencies.
- Standards Receiving the Highest FFT Treatment.
- Next Steps in CEI Implementation.

## FFTs by Discovery Method as of 6/30/12

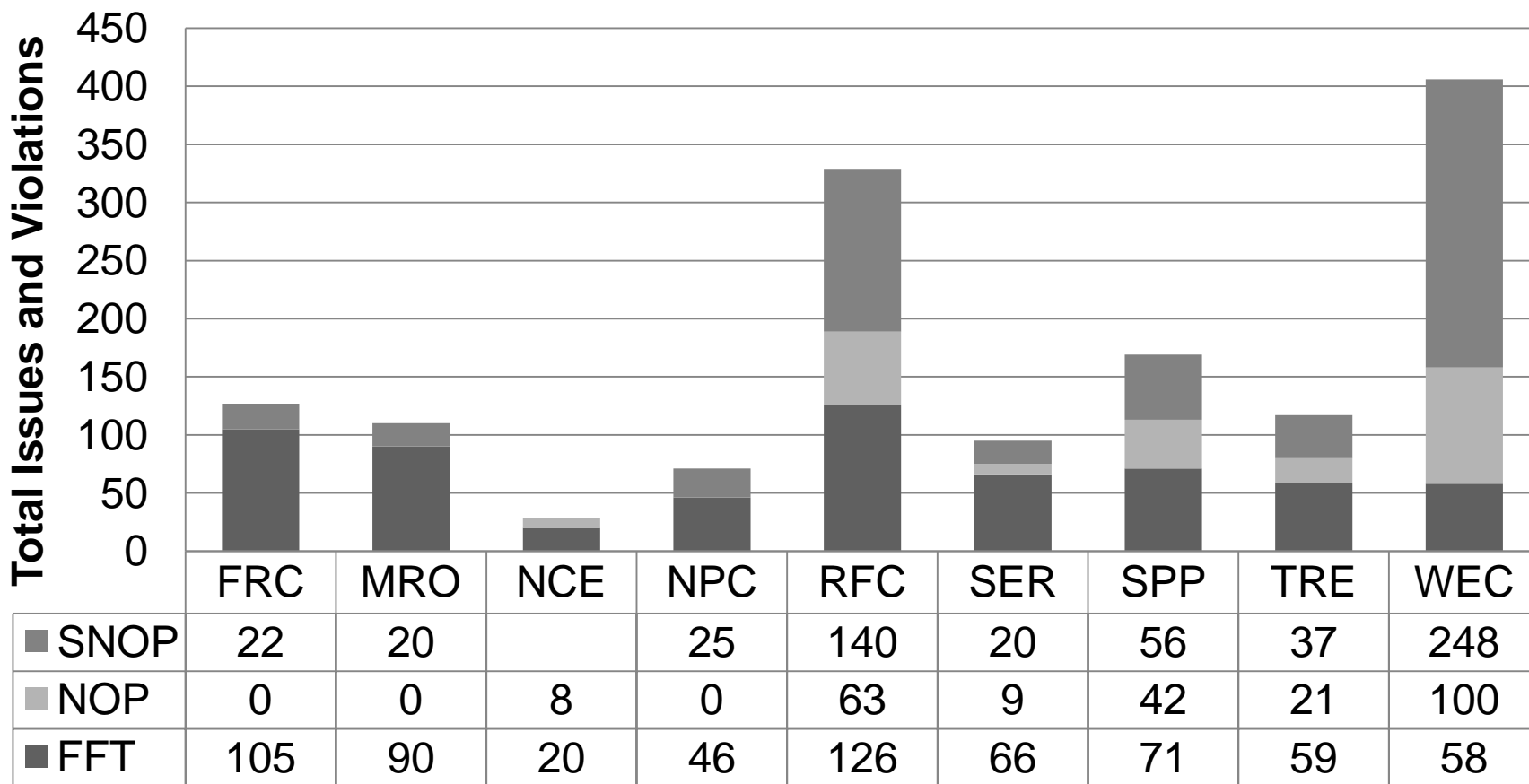


- Incentives:
  - Avoiding a monetary penalty.
  - Abbreviated enforcement process.

- Average duration from discovery to filing:
  - For FFTs discovered after July 1, 2011 = 6.3 months.
  - The ERO is committed to reducing this time.
- Of the 641 FFTs filed, 350 were for CIP-002 through CIP-009 standards violations.
  - 101 of the 350 were CIP-007.
- The highest number of non-CIP FFTs were the 48 CIP-001 issues, followed by 42 PRC-005 issues.



## FFTs/ SNOPs/NOPs Filed from Sept 2011 to June 30, 2012



- Develop a training program for CEA compliance and enforcement staff that will address:
  - Factors to be evaluated when considering processing track.
  - Changes to existing processes that will result from the extension of FFT recommendations by CEA compliance monitoring staff to enforcement staff.
- Public education and outreach activities to evaluate and improve the program will also continue.

- 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.
- Serious treatment for violations that should have been self-identified.
  - Less likely to be FFTs.
- The ERO and registered entities must continue to perform in order to exercise additional discretion.

- 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.



- 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—though not as single factor.

- Near final draft anticipated in early February, 2013.
- NERC is working to collect the information required in the one-year report.



- FERC will use the filing to evaluate the effectiveness of the FFT program with regard to such matters as:
  - The effect of the program on improving BPS reliability – narrative discussion of risk-based approach and how FFT fits in.
  - The effect of the program on addressing NERC's compliance and enforcement program, including its caseload – graphs similar to 6-month report.
  - The effect of the program on NERC and the Regions better focusing resources on addressing more serious violations – experience dealing with serious issues.

- How NERC's evaluation of risk in identifying candidate for possible violations for FFT treatment has evolved, including how VRFs are considered in the evaluation.
- How the FFT mechanism can be improved based on experience – view of end state and desired improvements.
- Results of audits, spot checks or random samplings that NERC or the Regions performed regarding the FFT process – NERC developing a random sampling approach.
- The impact, if any, the implementation of the FFT mechanism has had on the number of Self-Reports submitted – will be tracking level of Self-Reports.

- NERC's evaluation of the consistency and application of the FFT initiative:
  - Addressed above re: audits, spot checks, and other sampling methods. The results of those monitoring activities are expected to provide insight into consistency issues.
  - NERC expects to expand on the review and coordination processes currently in place, which have been discussed in prior filings.

- Effect the FFT process has had on the allocation of resources to compliance activities.
- Ways in which the FFT mechanism can be improved.
- Effects on internal controls and willingness to self-report.
- Experience so far with the Regions on processing FFTs.
- Develop and track efficiency metrics to provide further information on the impact of the program on processes.

- FERC has provided support and guidance for the CEI.
- NERC and the Regions will continue to work with registered entities on compliance and enforcement efficiencies.
- Registered entities should continue to be on the frontlines of maintaining and ensuring reliability.

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