



NERC Compliance Monitoring and Enforcement Program

Nebraska Power Association
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 Midwest Reliability Organization

NERC Compliance Program Purpose

- The focus and primary objective of NERC's compliance program is to improve the reliability of the bulk power system in North America by fairly and consistently enforcing compliance with NERC standards.



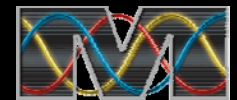
Brief History of the North American Electric Utility Industry

- Various players: large and small; investor owned and publicly owned; Canada and United States; asset owners; marketers
- Grid developed regionally; then interconnected for reliability and efficiency purposes; tariffs and markets developed; changing regulations to provide competition
- Regulators: FERC, Provincials, and States
- Major Blackouts
 - 1968
 - Response: Industry stepped up and established a voluntary organization called North American Electric Reliability Council for “bulk power system reliability”
 - 2003
 - Response: Legislation passed called the Energy Policy Act 2005 resulting in mandatory standards with financial penalties for violations: applies to the bulk power system (not distribution)



Key Reliability Provisions of EPO Act 2005

- Created one international, industry self-regulatory organization called the Electric Reliability Organization (ERO)
- Federal Energy Regulatory Commission (FERC) oversight in U.S.
 - Delegates authority to set and enforce mandatory standards to ERO
 - ERO delegates authority to Regional Entities (RE or Regions) via delegation agreements (filed with regulators)
- Standards apply to all owners, operators and users of bulk power system
 - Standards developed using ANSI-type structure (open, inclusive, no cost to participate)
 - Registration criteria and process
 - Enforcement penalties up to \$1 million per day per violation



Key Reliability Provisions of EPO Act 2005

- Governance

- FERC, to ERO, to Regional Entities (MRO)
 - Independent from Owners, Operators, Users of the BPS

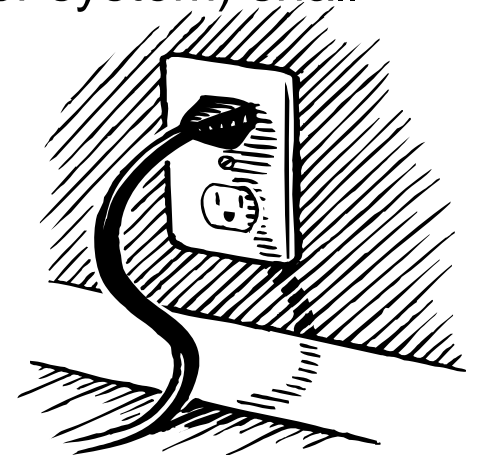
- Funding

- Mandated in legislation: Proportional share of costs based on electrical “load” (load serving entities)
- Penalties are not budgeted, used to offset the Regional Entity budget for upcoming year



Who Must Comply?

- Energy Policy Act:
 - All Owners, Operators, and Users of the bulk power system shall comply with reliability standards
- FERC Rule
 - All entities subject to the Commission's reliability jurisdiction... (Owners, Operators, and Users of the bulk power system) shall comply with applicable Reliability Standards ...
- NERC Compliance Registry
 - Statement of Compliance Registration Criteria



Mandatory Reliability Standards Framework

- Enforceable Standards are:
 - Technically valid and justified
 - Vetted through an open process
 - Applicable to owners, users, and operators of the bulk power system
- Key Components of a Standard:
 - Purpose
 - Requirements
 - Measures
 - Compliance Elements



Aspects of MRO Responsibilities

- To enforce Reliability Standards on Owners, Operators, and Users of the Bulk Power System within MRO geographic boundaries in order to ensure system reliability is maintained and corrective actions are taken when deficiencies are discovered
- To provide an open and fair process in conducting its activities as described in the Uniform Compliance Monitoring and Enforcement Program (CMEP)
- To be independent and non discriminatory in carrying out its responsibilities under the CMEP



Compliance Program

- Primary CMEP Components:
 - Uniform CMEP Documents (NERC & MRO)
 - Annual Implementation Plan
 - Registry
 - Registration is on-going
 - Modifications to NERC Statement of Registration Criteria can result in another cycle of entity registration
 - Registry will become much more comprehensive with the addition of requirements and facilities etc.
 - Primary Compliance Contact for each Registered Entity
 - Monitoring & Discovery
 - Enforcement



Annual Implementation Plan

- The NERC CMEP requires each Regional Entity to develop an Annual Implementation Plan. The Plan must include:
 - Program schedule / timeline
 - 3-year compliance audit schedule (minimum threshold) for RC, TOP, BA functions
 - 6-year compliance audit schedule (minimum threshold) for Registrants performing all “Other Functions”
 - Identification of Reliability Standards to be monitored
 - Specific dates for reporting and other compliance program activities
 - Identification of the monitoring sources to be used
- The plan is posted on MRO web site:

http://www.midwestreliability.org/02_compliance/cmep/MRO_Implementation_Plan.pdf



Monitoring & Discovery Methods

- Monitoring and discovery methods are used to determine compliance with reliability standards:
 - Audit
 - Self-Certification
 - Random Spot Check
 - Periodic Data Submittal
 - Exception Reporting
 - Investigation
 - Self-Reporting
 - Complaint
- All alleged violations discovered (regardless of discovery method) move to enforcement



Mitigation Plan

- Mitigation Plan
 - Required for all items of non-compliance regardless of discovery method
 - Available in Compliance Data Management System (CDMS)
 - MRO staff tracks all mitigation plans to completion
 - Registered Entity will notify MRO when “Certification of Mitigation Plan Completion” document is uploaded to CDMS
 - Supporting evidence is submitted to MRO to verify Mitigation Plan completion
 - MRO provides email notice of verification of Mitigation Plan completion



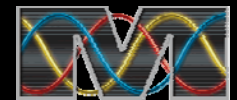
Importance of Mitigation Efforts

- Penalty imposed for a violation of a Reliability Standard
 - “shall bear a reasonable relation to the seriousness of the violation” AND
 - “shall take into consideration the efforts of the Registered Entity to remedy the violation in a timely manner.”
 - Excerpted from Federal Power Act, 16 U.S.C. § 824o(e)(6)



Steps in Due Process for Enforcement

- Second, independent review
- Determine facts and circumstances to validate severity of violation(s)
- Issue “Notice of Alleged Violation”
- If contested:
 - Right to a hearing at the Regional-level
 - Right to an appeal at ERO-level
 - May contest at the Regulatory level and then court



Enforcement Considerations

- Quantitative Factors
 - Risk to the bulk power system
 - Entity size
 - Repeat infractions and prior warnings
 - Time horizon (real-time / planning etc.)
- Qualitative Factors
 - Self-reporting
 - Quality of compliance program
 - Deliberate violations
 - Level Cooperation
 - Documentation vs Failure to Perform
- Overall: Enforcement action should correspond with the severity of the violation



Settlement Overview

- Available at any time prior to filing of Notice of Confirmed Violation
 - MRO will send formal Acknowledgement of Request for Settlement
 - Can request prior to issuance of Notice of Alleged Violation
- Includes facts and statements by both parties
- Penalties may be reduced through remedies
 - Offset proposed financial penalty, not a dollar for dollar offset
 - Above and beyond mitigation efforts
- Must be approved by MRO Board, NERC and FERC



Developing and Implementing Compliance Culture

- **FERC Policy Statement On Compliance: (October 16, 2008)**
 - It is in the public interest to encourage companies to develop a rigorous compliance program (this should help minimize potential violations, and if violation is discovered can give a significant weight when determining a penalty)
- **Identified 4 Key Factors of Effective Compliance**
 - Role of Senior Management in fostering compliance
 - Effective preventive measures to ensure compliance
 - Prompt detection, cessation, and reporting of violations
 - Remediation efforts

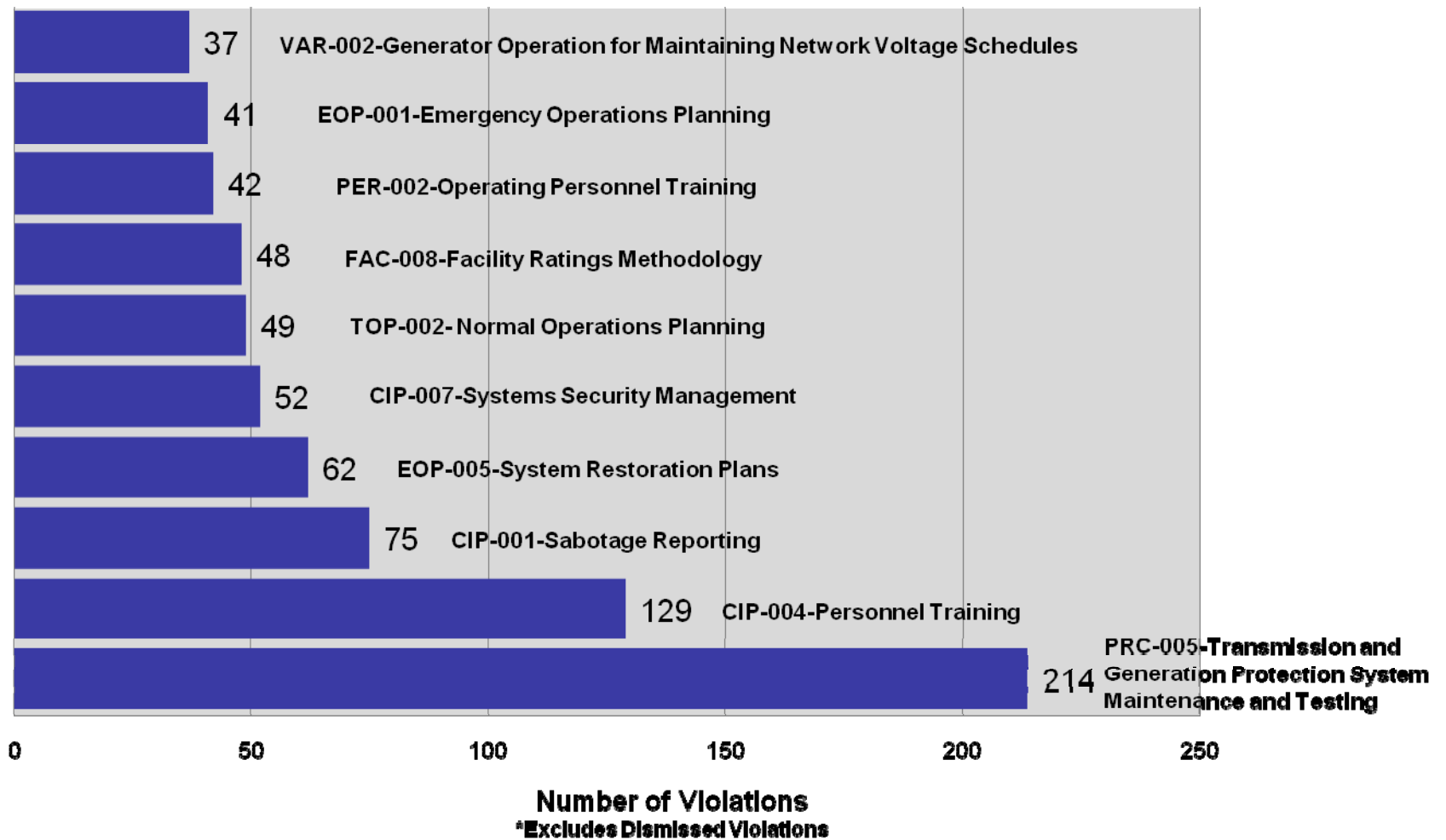


Key Elements of an Effective Compliance Program

- Perform self assessment or self audit
- Have procedures for Self reporting
- Be timely and aggressive with corrective actions
- Staff should be knowledgeable of requirements for each standard
- Identify senior management roles in regard to the compliance program
- Independence from operations – direct line to CEO
- Have some type of internal compliance training
- Disciplinary procedures
- Controls to prevent reoccurrence
- “Sustainable compliance” (system approach vs. a “point in time”)



Top 10 FERC Enforceable Standards (Submitted Dates: 02/1/2009 thru 01/31/2010)



NERC - TOP 10 VIOLATED STANDARDS ANALYSIS AND LESSONS LEARNED

- Analysis Completed on six (6) of the top 10 standards violated
- Two Standard Analysis documents posted to the NERC website, PRC-005 and CIP-004
- Compliance analyses in Process: FAC-008 / FAC-009, CIP-001, VAR-002, and PER-002
- Reports can be found at:

<http://www.nerc.com/page.php?cid=3|329>



Questions

- For questions about the Compliance Monitoring and Enforcement Program and/or process, please contact:

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