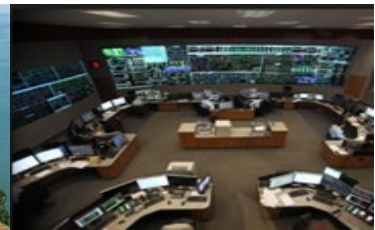


Enforcement Webinar

Tom Scanlon, Managing Enforcement Counsel



Roadmap and Takeaways

- **Transparency**
- **Data/Trends**
- **Dispositions and Sanctions**
- **Working with your assigned ReliabilityFirst Case Manager**





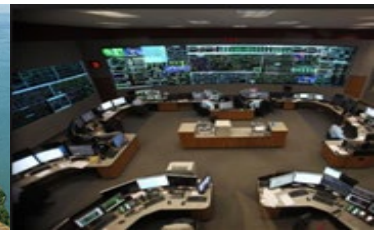
Enforcement Trends

Tech Talk with RF

4-18-2022

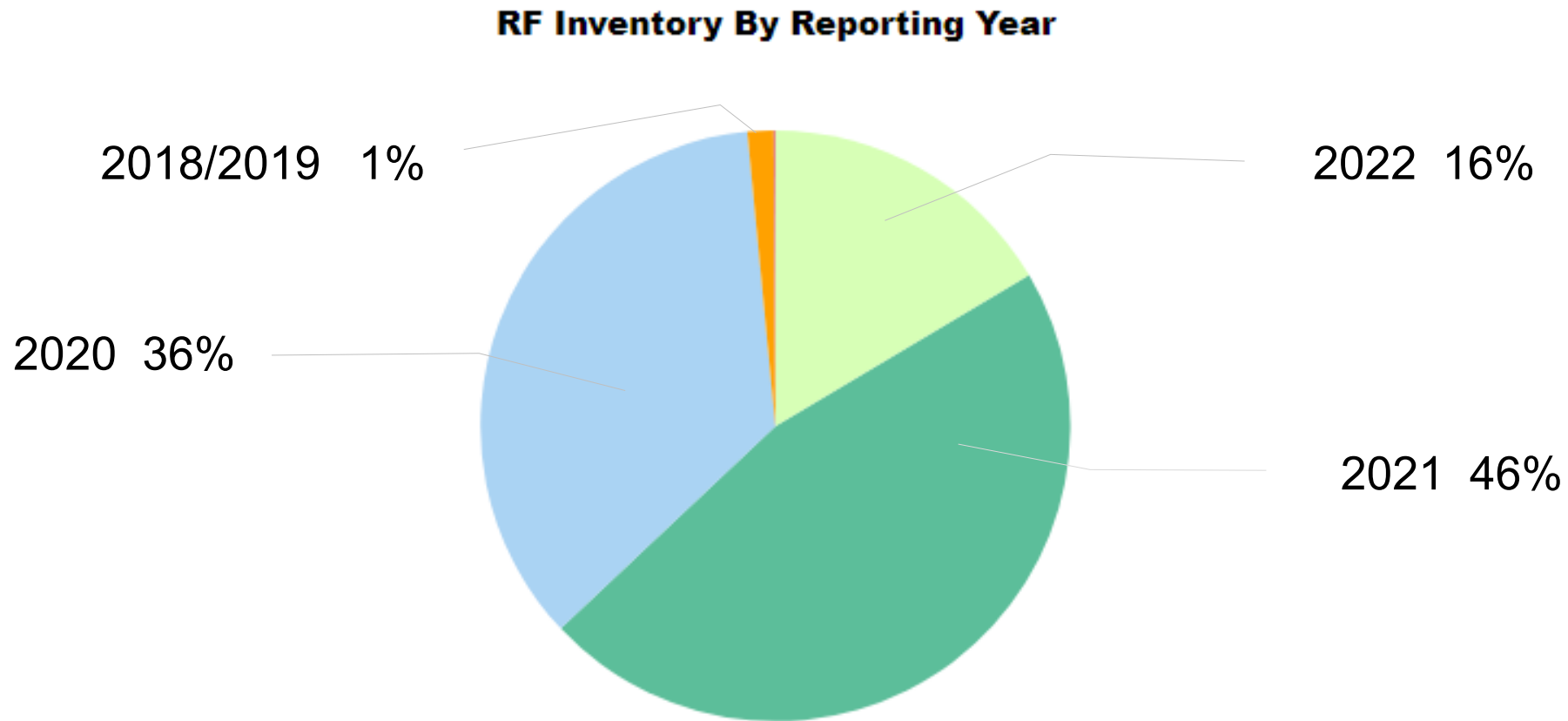
Elizabeth Emanuel, Counsel RF

Farzaneh Tafreshi, Manager Analysis and Reporting, NERC

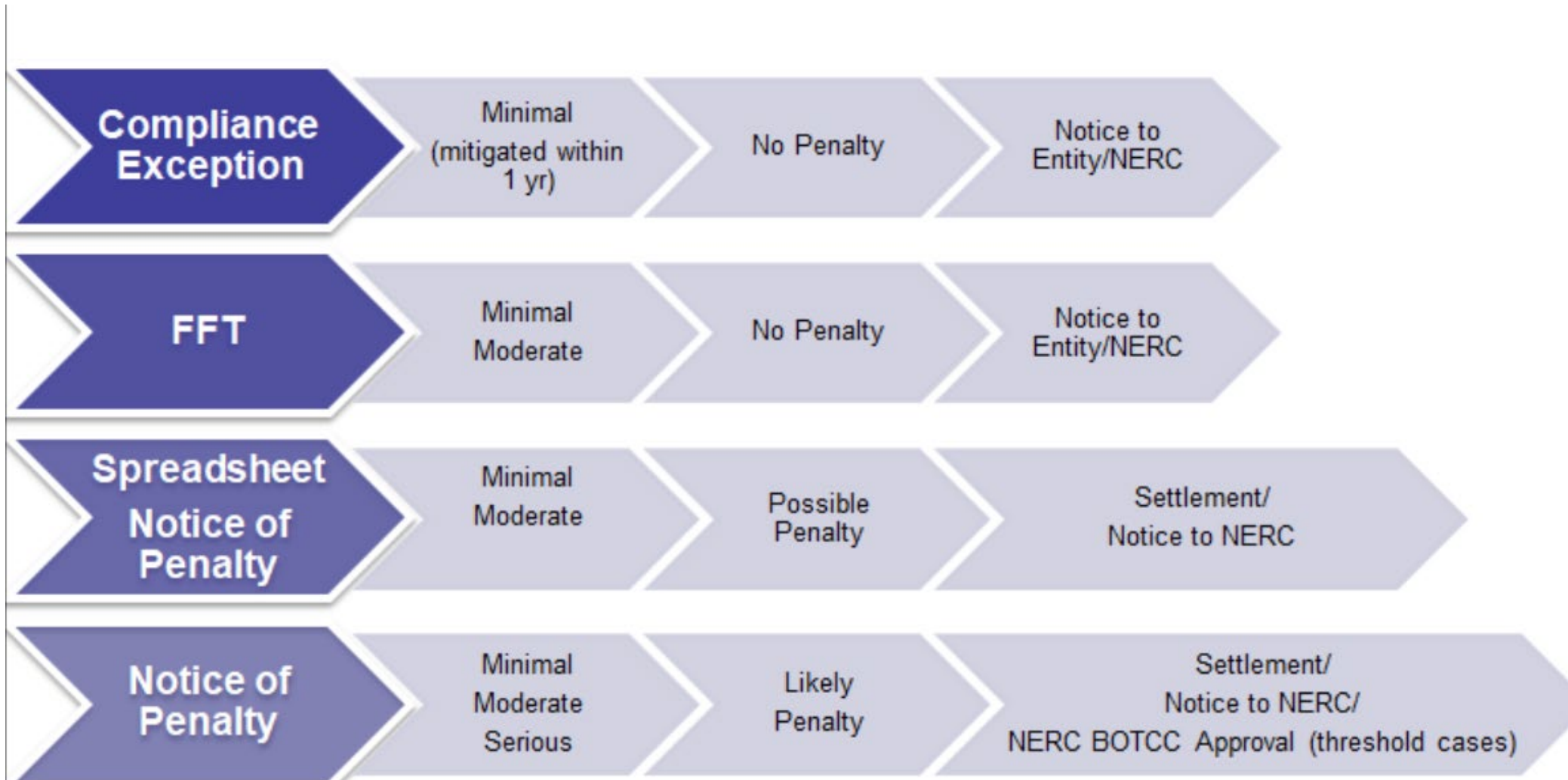


Violation Inventory

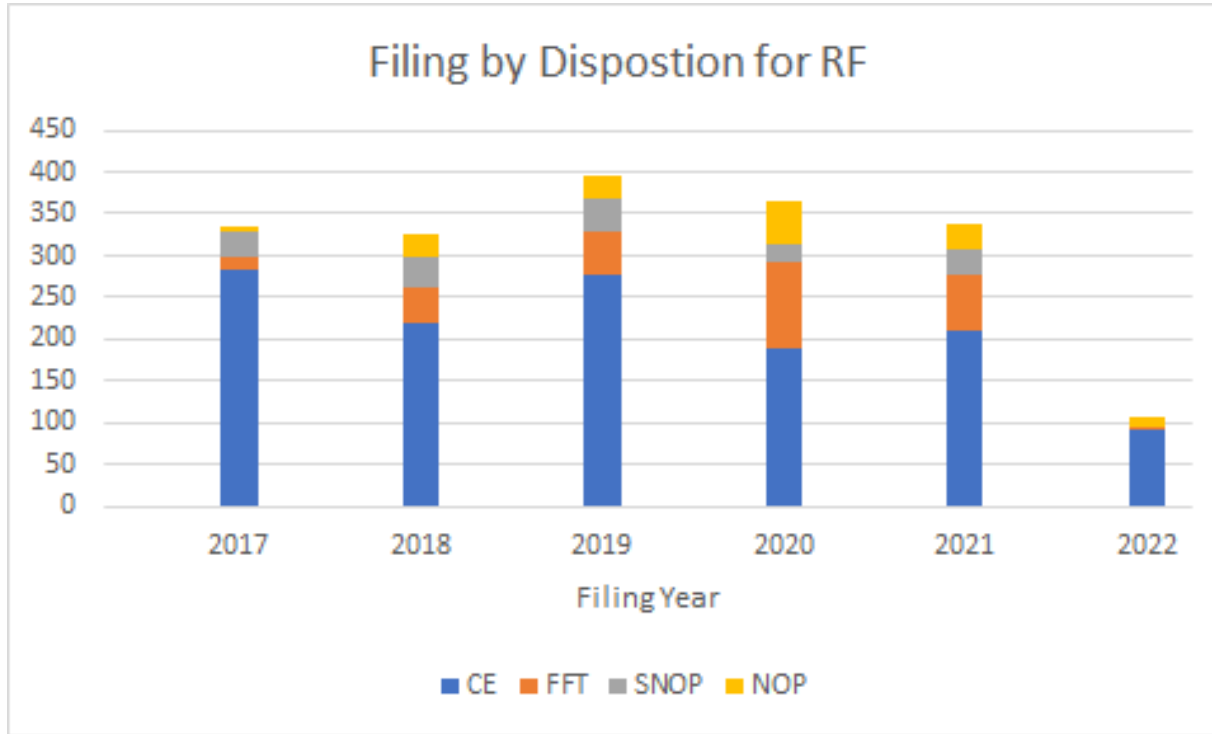
➤ All Open Violations as of March 31, 2022



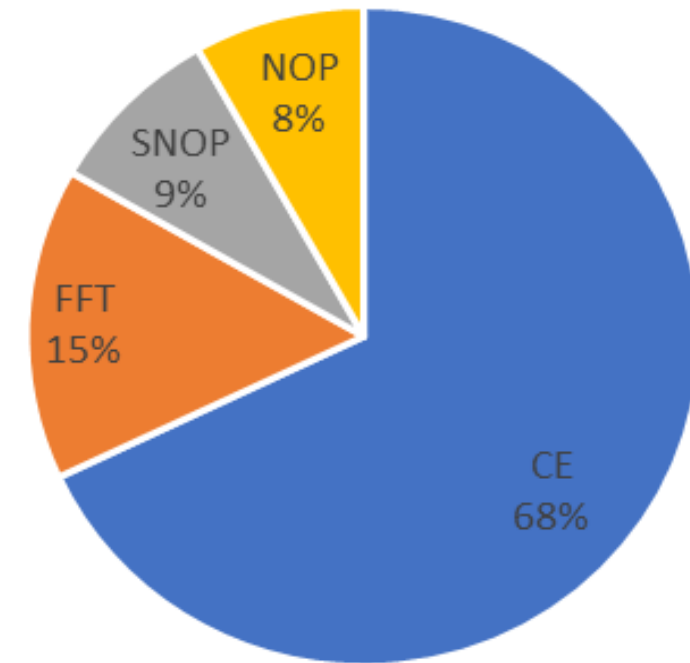
RF Disposition Types



RF Disposition Tracking



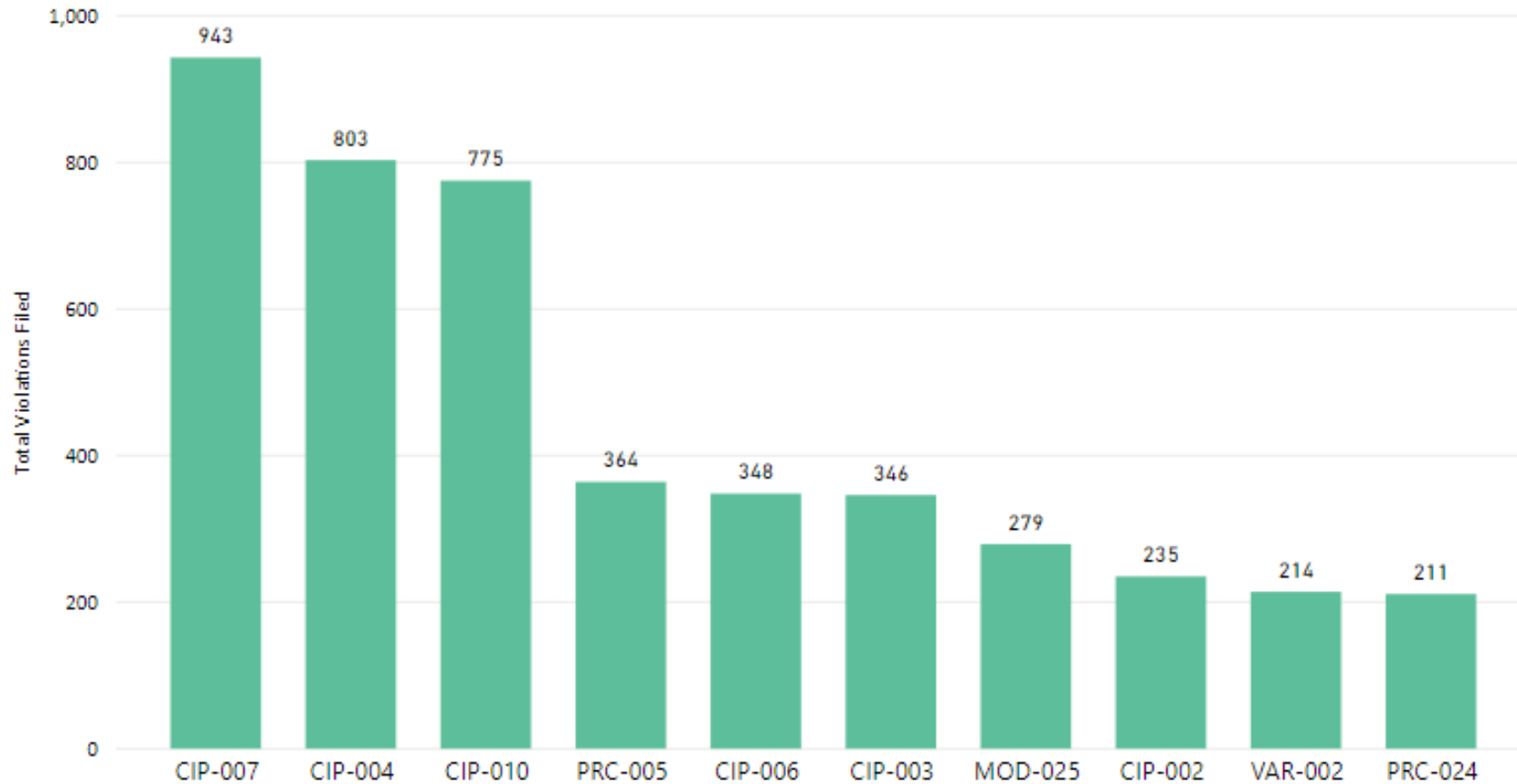
Filing by Disposition for RF



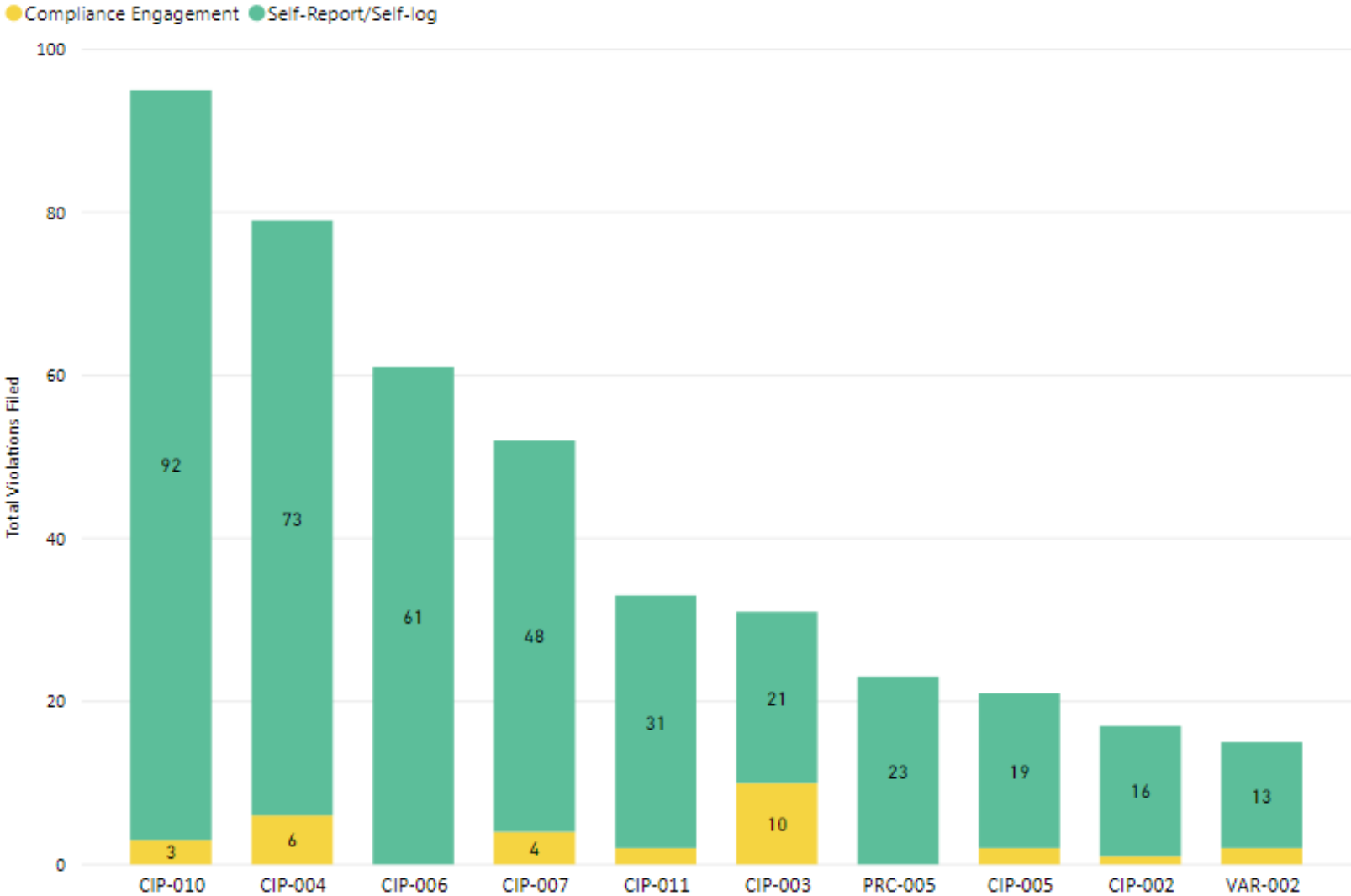
CE: Compliance Exception
FFT: Find Fix Track
SNOP: Spreadsheet Notice of Penalty
NOP: Notice of Penalty



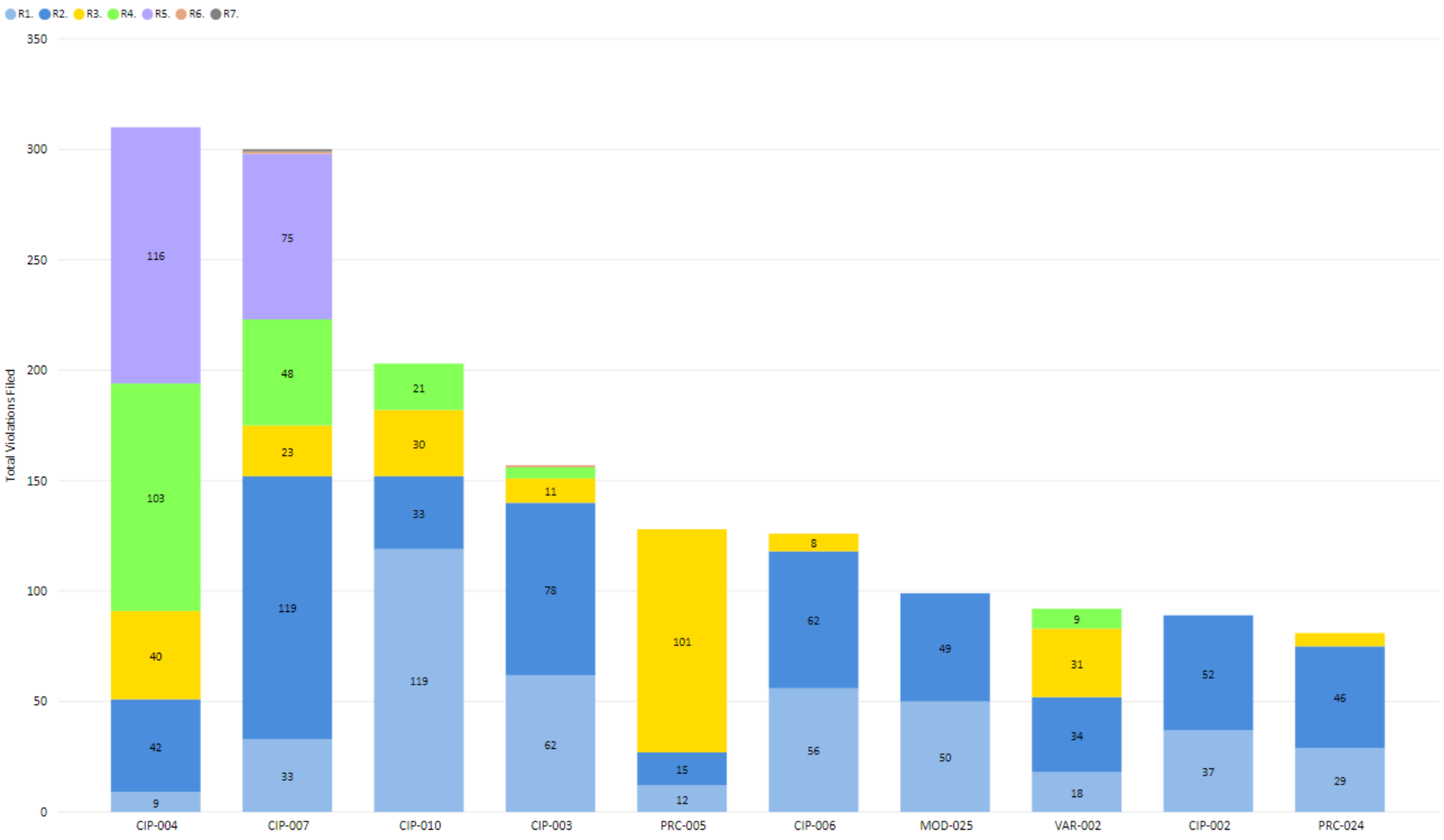
ERO TOP-10 Noncompliance Submitted 2018-2022



RF Most Violated Standards 2021-2022

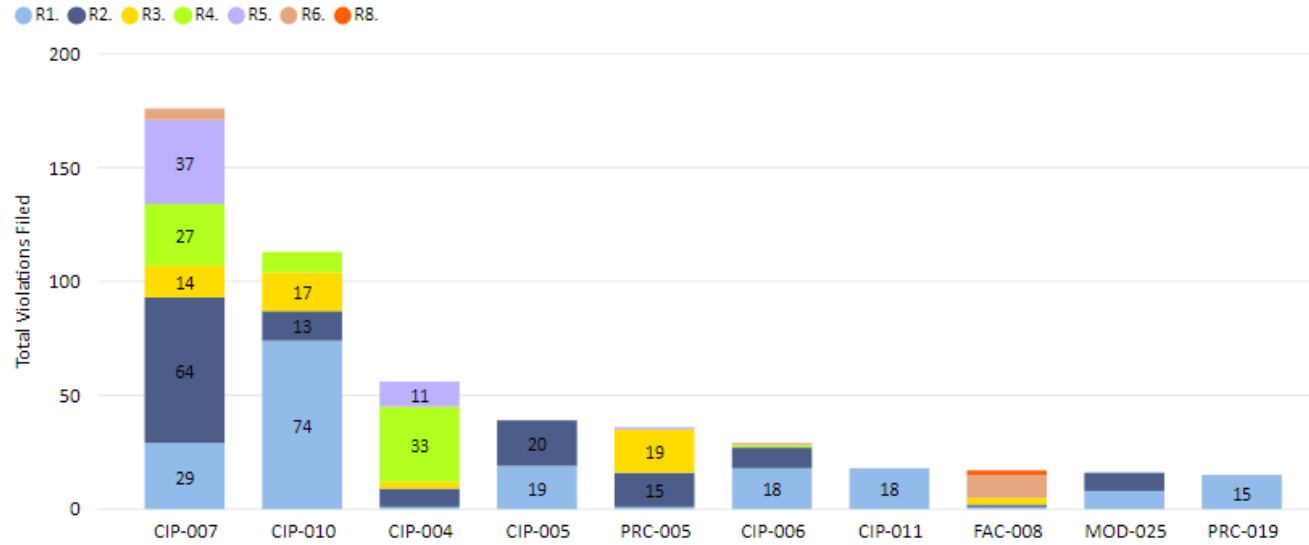


ERO High Frequency Conduct – CEs 2020-2022

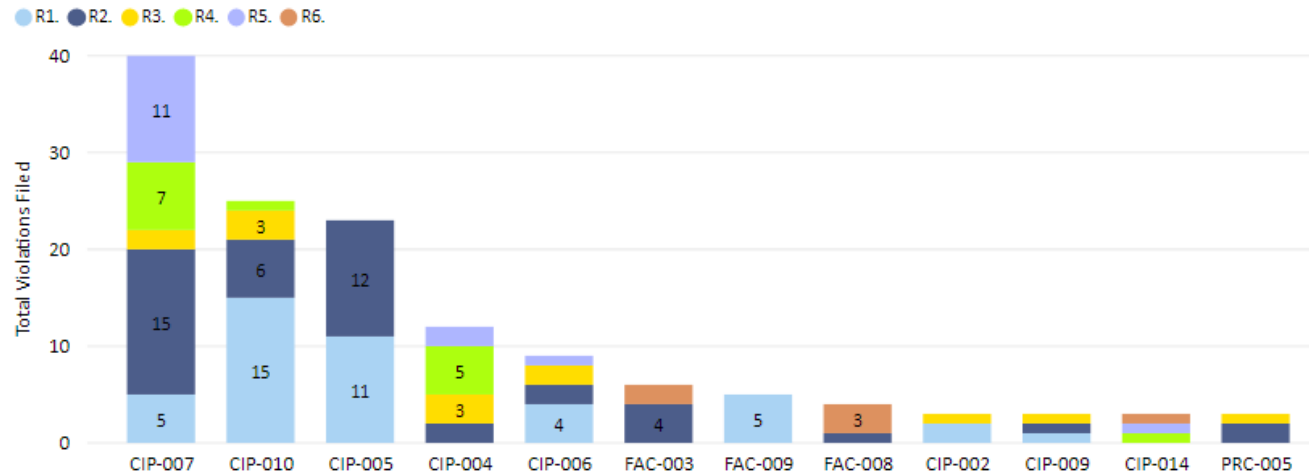


ERO Top 10 Violated By Requirement 2020-2022

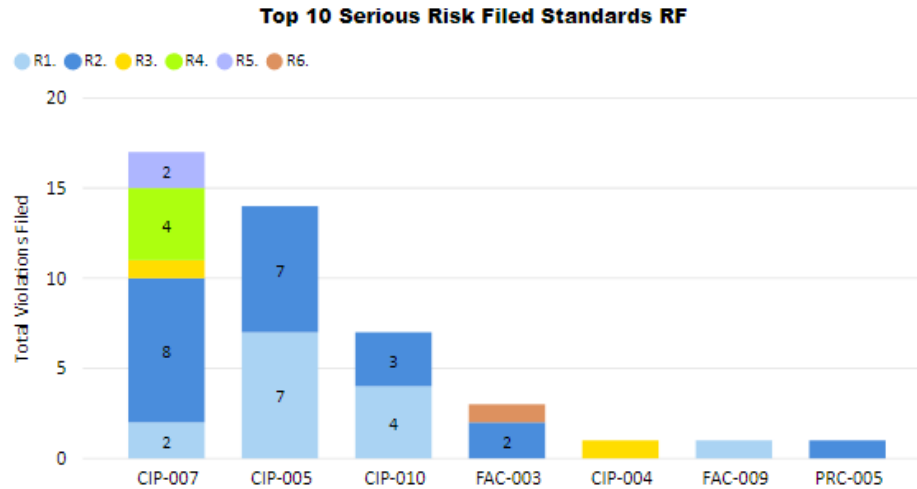
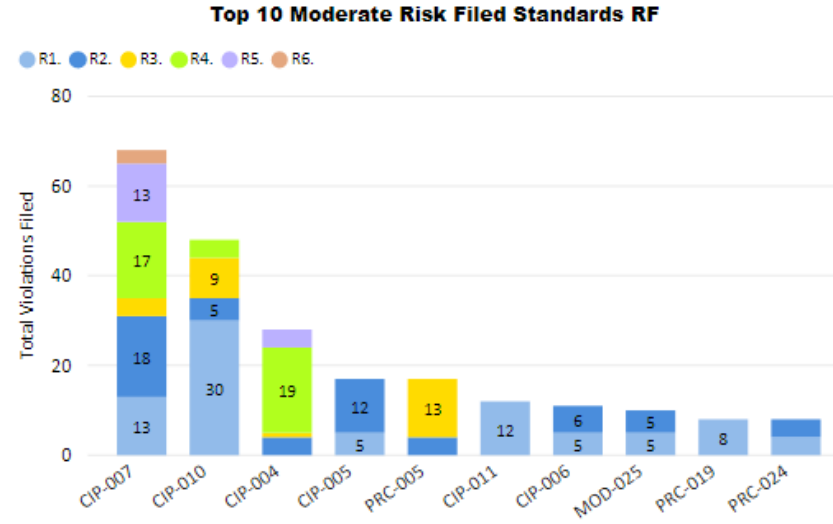
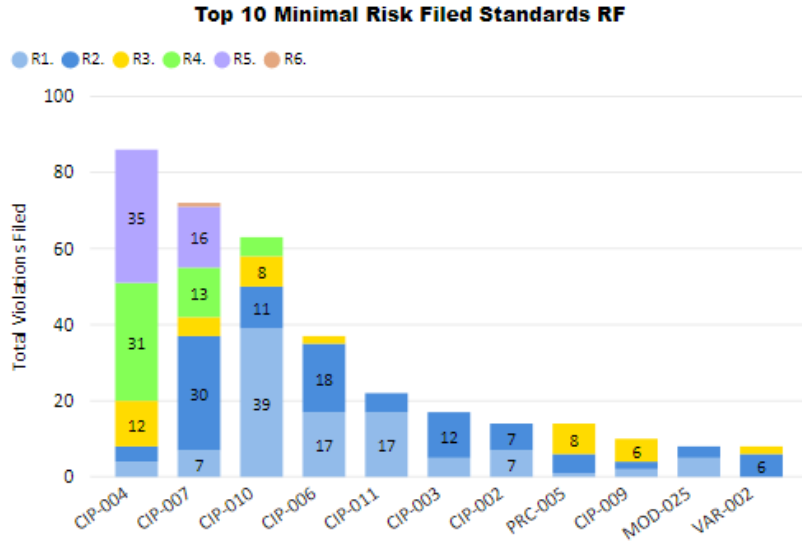
Top 10 Moderate Risk Filed Standards EROE



Top 10 Serious Risk Filed Standards EROE



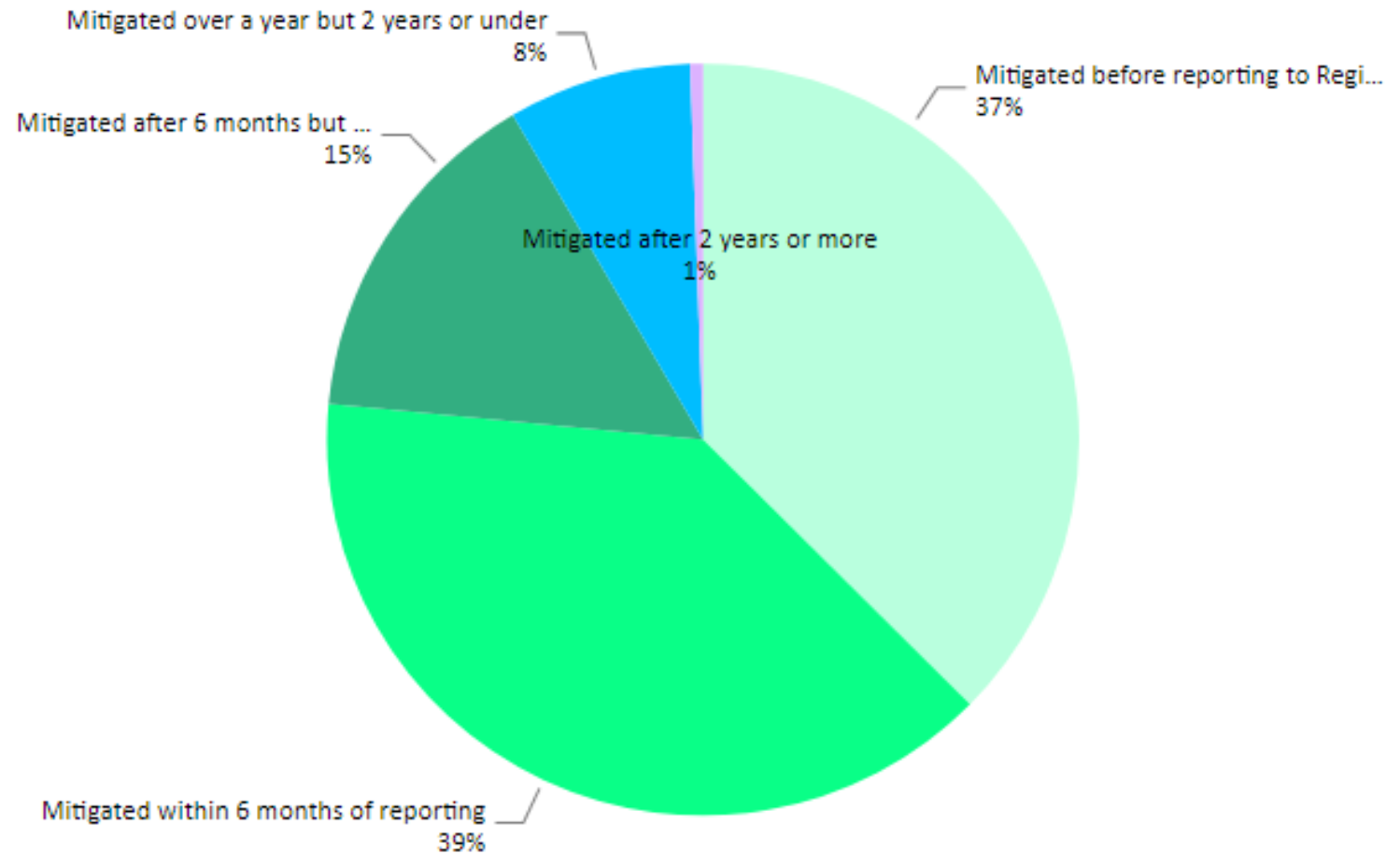
RF Top 10 Violated By Requirement 2020-2022



RF Mitigation Completion of CE and FFT 2020-2022

Time Frames for Completed Mitigation Reported

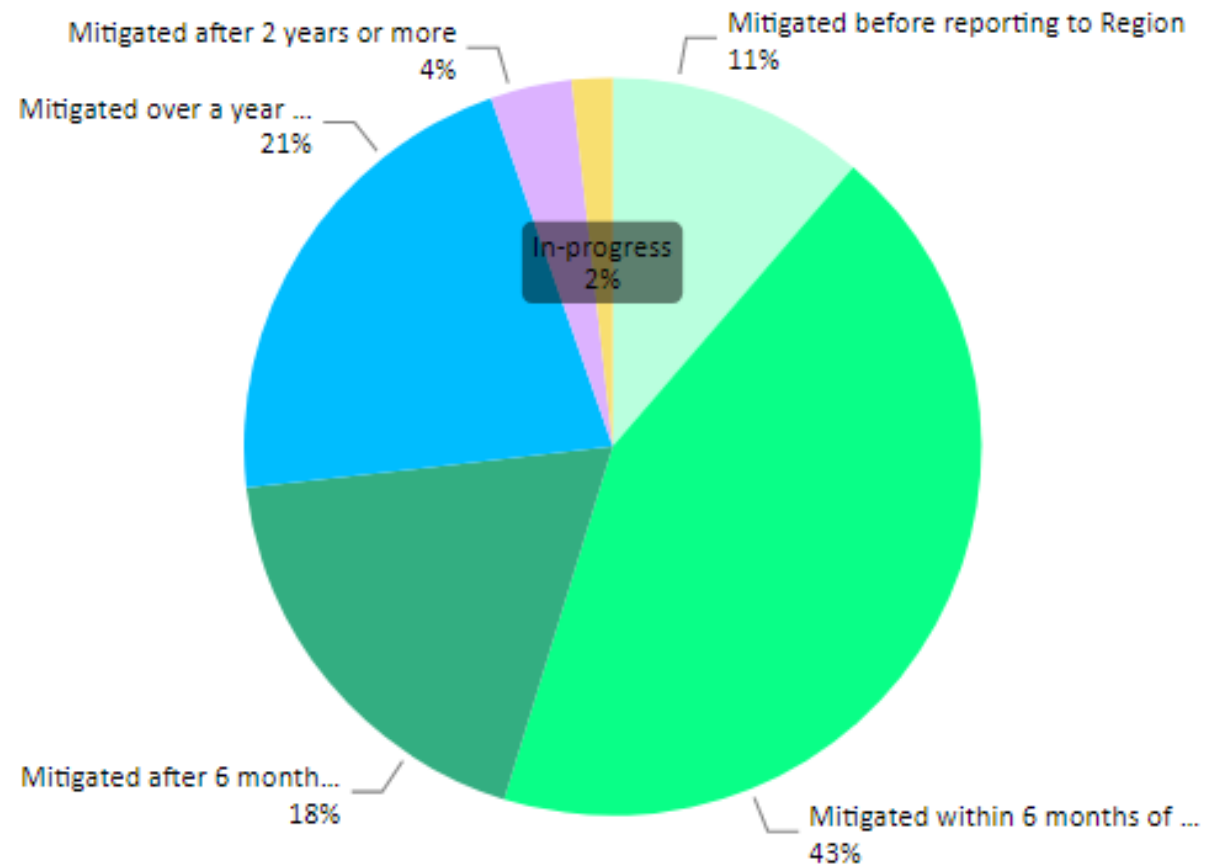
- Mitigated before reporting to Region
- Mitigated within 6 months of reporting
- Mitigated after 6 months but within a year or under
- Mitigated over a year but 2 years or under
- Mitigated after 2 years or more



RF Mitigation Completion of NOP and SNOP 2020-2022

Time Frames for Completed Mitigation Reported

- Mitigated before reporting to Region
- Mitigated within 6 months of reporting
- Mitigated after 6 months but within a y...
- Mitigated over a year but 2 years or un...
- Mitigated after 2 years or more
- In-progress



Questions & Answers

Forward Together  **ReliabilityFirst**

Mitigating and Aggravating Penalty Factors: A Case Study Approach

Tech Talk with RF
4-18-2022

Mike Hattery, Counsel RF



Basic Penalty Principle

➤ **The intention of the Sanction Guidelines:**

- [T]o result in monetary and non-monetary penalties that bear a reasonable relation to the seriousness of the violation(s) and mitigate overly burdensome penalties to less consequential or financially-limited entities, while promoting that no penalty is inconsequential to the entity to whom it is assessed.



Penalty Components Simplified

➤ Establishing the base monetary penalty

- Assessing risk (minimal, moderate, or serious),
 - Likelihood of harm and potential magnitude of harm
 - Actual harm can be considered but a lack of actual harm does not displace the execution of risk assessment
- Other inputs: VRF/VSL, Size, Duration, Violation Time Horizon

➤ Adjusting the base monetary penalty

- Aggravating factors (increase monetary penalty): Compliance History, Failure to Comply with a Remedial Action Directive, Intentional Violation, Concealment/Resistance, and Management Involvement
- Mitigating factors (reduce monetary penalty): Quality of Internal Compliance Program, Cooperation, and Self-Reporting.



Case Study: Acquiring Noncompliant Assets

- In 2020, a Registered Entity (EnergyCo #1) purchased transmission assets and associated facilities in the ReliabilityFirst footprint*
- The prior owner had deemed the assets and facilities non-BES
- Prior to completing the transaction, EnergyCo #1 conducted a review and discovered:
 - Some assets had been misclassified as non-BES; and
 - This resulted in a number of compliance issues
- EnergyCo #1 was unable to ensure that all noncompliances were remediated prior to completing the transaction, including noncompliance with PRC-005-6

This case study includes actual and hypothetical facts and is not based on a single case.



Assessing the Risk: Applied

➤ Components of a risk assessment:

- Start with the specific standard and requirement:
 - PRC-005-6- increases the reliability of the Bulk-Power System by ensuring the maintenance and testing of all transmission and generation Protection Systems, which isolate segments of the BES when faults occur.
- What was the duration of the violation?
 - January 1, 2019 - October 2, 2021
- What was the scope of the violation?
 - The scope affected 30 relay schemes
- What is the risk associated with the affected assets?
 - The relay schemes served primarily connected industrial
- What additional protections or contextual factors exist which may impact the likelihood of occurrence or harm magnitude?



Aggravating Factors: Assessing Compliance History

➤ Aggravating Test:

- Was the prior violation still ongoing within five years of the start date of the instant violations; and
- Either: (a) violations with the same root cause as the instant violation and mitigation activities that should have prevented future violations; or (b) programmatic failures involving the same or similar Reliability Standards and Requirements.

➤ Compliance History Examples **PRC-005-6***

- Prior violation #1:
 - October 1, 2008-October 29, 2010, entity failed to timely test relay scheme components due to inadequate internal controls around timing.
- Prior Violation #2:
 - July 3, 2015- November 10, 2017, entity failed to timely test relay scheme components due to inadequate internal controls around timing.



Aggravating Factors Part Two

- **Intentional Violation**
- **Violation Concealment, Resistance, Impediment, Non-Responsiveness, and Lack of Cooperation**
- **Failure to Comply with a Remedial Action Directive**
- **Management Involvement**



Penalty Reducing Factors: Internal Compliance Program

➤ **Presence and Quality of the Entity's Internal Compliance Program**

- Key consideration: the entity's actions and controls to prevent and detect violations and promote an organizational culture that encourages a commitment to compliance with the Reliability Standards.

➤ **How EnergyCo #1 Demonstrated Quality of Internal Compliance Program**

- Proactive review of assets involved in purchase
- Successful identification of violation via successful internal controls
- Integration of new asset purchase into centralized, structured compliance program



Degree & Quality of Cooperation

➤ Degree and Quality of Cooperation

- Cooperation is tied to the investigation of the violation and mitigating actions related to it.
- Key consideration: did the entity cooperate in a timely and thorough manner, including the disclosure of all pertinent information known by the entity.

➤ How EnergyCo #1 Demonstrated Quality of Cooperation

- The entity was highly responsive during enforcement action and provided detailed information on the scope of the noncompliance
- The entity was highly communicative with RF throughout the purchase process
- The entity and ReliabilityFirst staff met to discuss mitigation of the violation



Disclosure of the Violation Through Self-Reporting

➤ **Disclosure of the Violation Through Self-Reporting**

- Key consideration: did the entity self-report the violation (1) within a reasonably prompt time of identification and (2) not at or near the time of a compliance monitoring engagement

➤ **How EnergyCo #1 Demonstrated Disclosure of the Violation Through Self-Reporting**

- The entity discovered this violation by doing an extensive and comprehensive review of the assets.
- The entity identified the violation as part of the acquisition and then promptly self-reported both of those violations to ReliabilityFirst.



Questions & Answers

Forward Together  **ReliabilityFirst**