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Risk-based Regulation



Generally, risk-based regulation involves the regulator working collaboratively with the regulated organizations for the proactive prevention of harms. To accomplish this goal, the regulator must have a nimble, mission-driven approach to determine the issues it will focus on and utilize the appropriate mechanisms to influence behavior

that will mitigate the potential harm posed by those issues. This process has been described as the “craft of regulation.”

RF practices the craft of regulation in the enforcement context by utilizing mechanisms that are designed to enable RF and Registered Entities to focus their time and resources on issues that pose a higher risk to the bulk power system (BPS).

This approach raises two questions: (1) how does RF determine the potential risk posed by a potential noncompliance; and (2) how does RF resolve violations differently depending on their risk level?

Determining Potential Risk Posed by a Potential Noncompliance

Once a potential noncompliance has been identified (regardless of whether it was self-identified by a Registered Entity or identified by RF through a compliance monitoring engagement), the RF enforcement staff in conjunction with the Risk Analysis and Mitigation (RAM) department initiate the risk assessment process.

This process begins with building the factual record to ensure that RF has all of the information necessary to make a risk determination. Below are some examples of the types of information that we typically seek out at this step of the process:

1. A detailed explanation of how the Standard and Requirement were violated
2. An adequate explanation of the root cause
3. Start and end dates with adequate justifications

4. Information concerning extent of condition review
 - a. The results of the review, if one was performed
 - b. An explanation for why one is not necessary, if one was not performed
5. Other factors impacting the potential risk of the potential noncompliance (both mitigating and aggravating). Examples include:
 - a. System conditions during the event
 - b. Any internal controls in place that helped detect or correct the issue quickly
 - c. Type/function of components or devices impacted
 - d. Redundant or complementary internal controls in place to reduce the risk posed by the potential noncompliance

If there are any relevant facts that are unknown, RF enforcement will issue a request for information to the Registered Entity to obtain them. In addition to the factors mentioned above, RF also analyzes entity-specific considerations such as the entity’s size, structure and location, and the maturity of the entity’s preventative, detective and corrective controls.

Based on all of this input, RF makes a final determination of the risk posed by the potential noncompliance – i.e., minimal, moderate or serious.

Resolving Potential Noncompliances Differently Depending on Risk Level

After RF has made a final risk determination, the next step of the disposition process involves determining the appropriate disposition track for the potential noncompliance: Compliance Exception, Find Fix and Track (FFT) or Settlement Agreement. Each of these disposition tracks is tailored to a different risk level, with Compliance Exceptions and FFTs involving more streamlined processes that reduce the time and resources required to resolve.

Generally, minimal risk violations are disposed of via Compliance Exception, lower moderate risk violations are disposed of via FFT and higher moderate risk issues and serious risk issues are disposed of via Settlement Agreement. However, many more factors come into play in choosing the appropriate disposition track, which can alter that general approach. Notably, over the last 5 years, RF has disposed of approximately

Enforcement Explained

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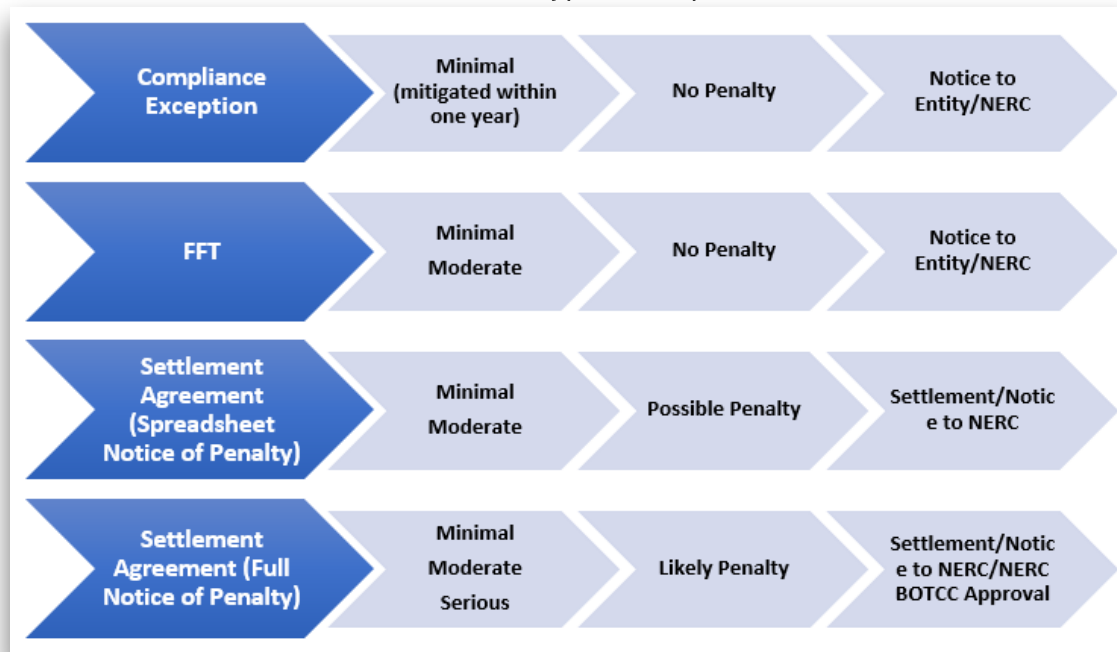
85% of potential noncompliances without a monetary penalty, meaning that the overwhelming majority of cases follow the Compliance Exception and FFT disposition tracks.

An entity's compliance history may aggravate the disposition track of a violation when it includes: (a) violations with the same root cause as the instant violation and mitigating actions that should have prevented the instant violation; or (b) programmatic failures involving the same or closely related Reliability Standards and Requirements.

Additional examples of other factors that may impact the disposition track of a violation include considerations such as how similar issues have been disposed of both within RF and throughout the ERO and whether a violation is part of a larger group of violations that arose from a common set of facts or demonstrate a common theme.

Considering how similar or comparable matters have been disposed of both within RF and throughout the ERO, while not binding, helps ensure that our outcomes are reasonable and that entities are not being treated unfairly. Moreover, sometimes one common set of facts gives rise to several violations with varying risk levels. In some of those cases, it is necessary to package those violations together in one disposition in order provide the full background and context of the violations, which helps facilitate a better understanding of the risk posed by all of the violations involved.

The graphic below is a quick guide to the distinctions between the different types of disposition methods:



Conclusion

Our goal in the enforcement department is to work collaboratively with our entities to ensure the proactive prevention of harms. To that end, if you have any questions on any of the information provided here, please reach out to your case manager who can discuss it with you in more detail.