



# **Navigating Noncompliance Resolution**

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Enforcement Attorney**

# Antitrust Admonition

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**Notice of this meeting was posted on the Texas RE website and this meeting is being held in public. Participants should keep in mind that the listening audience may include members of the press, representatives from various governmental authorities, and industry stakeholders.**



# Upcoming Sessions

June 3 – History and Introduction to Texas RE

June 4 – Registration & Certification

June 5 – Intro to Align

June 6 – Risk-Based Approach to Reliability

June 10 – Foundations of CIP Programs

June 11 – Foundations of O&P Programs

June 12 – Navigating Noncompliance Resolutions

June 13 – NERC Data Collection, Events Analysis, and Guidelines

June 17 – Reliability 201: CIP















June 18 – Reliability 201: O&P

June 24 – Reliability 201: CMEP Feedback Loop

June 25 – Reliability 201: Compliance in Align Walkthrough

June 25 – Reliability 201: Reliability Services

# JUNE 2024

SUN	MON	TUE	WED	THU	FRI	SAT
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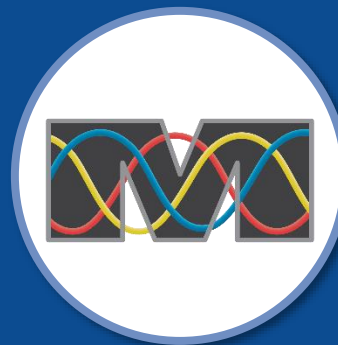


# Upcoming ERO Enterprise Events



**May - July, 2024**

GADS Wind & Solar Template  
and Application Training



**June 27, 2024**

Regional Summer Assessment  
Webinar



**July 22, 2024**

Technical Talk with RF



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# The Enforcement Department: What We Do

Evaluate Potential Noncompliance with NERC Reliability Standards ([Reliability Standards \(nerc.com\)](http://www.nerc.com))

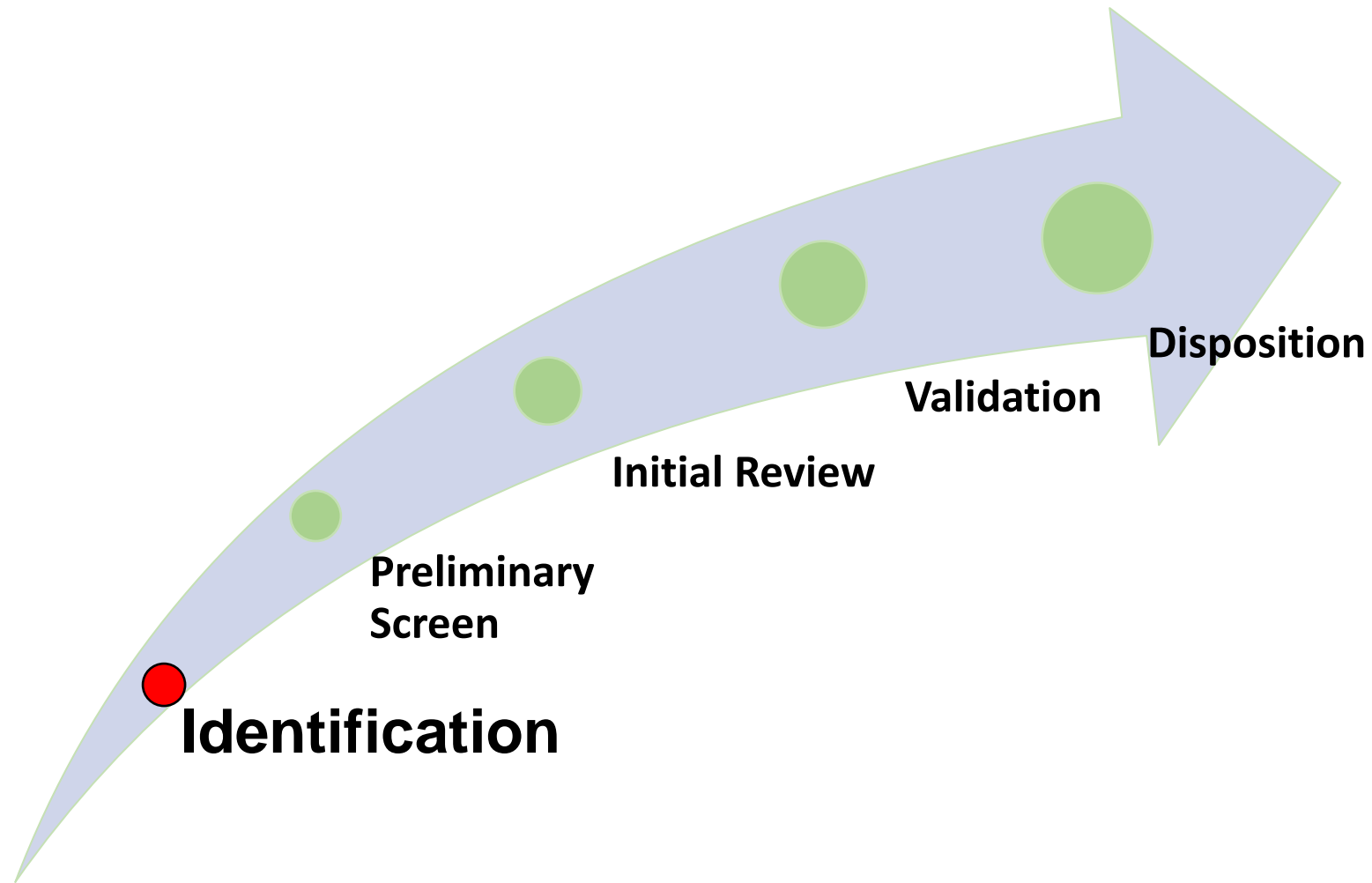
Validate the Appropriate Method of Disposition

Work with Entities to Develop Mitigation Steps for the Noncompliance

Submit the Written Disposition to NERC and FERC



# Violation Process—Identification



# Identification of Potential Noncompliance

## Methods of Discovery

Self-Identified

Compliance  
Assessments

Complaints



# Self-Report and Self-Log—Differences

## Self-Report

- Any risk (minimal, moderate, serious)
- CE, FFT, SNOP, or NOP
- Report at any time

## Self-Log

- Minimal risk only
- CE presumption
- Logs due on recurring schedule but can be provided any time

# Self-Report and Self-Log—Important Details of Noncompliance

**Discovery and Description of the Noncompliance**

**Scope or Extent of the Noncompliance, if Known**

**Root Cause**

**Risk of Potential or Actual Impact**

**Mitigation and Prevention of Recurrence**



## Discovery and Description of the Noncompliance

- When and how was the noncompliance discovered
- Start and end dates, and basis for dates
  - The end date is when the noncompliance is corrected, which is not necessarily the mitigation completion date
- Describe the noncompliance in detail
  - What was the Requirement?
  - How was the Requirement not fulfilled?



# Self-Report and Self-Log—Scope or Extent of Noncompliance

## Scope or Extent of the Noncompliance

- Describe how you selected what else to review
- Identify the results of the review, including:
  - Other affiliated entities or Facilities affected
  - Procedures, assets, Facilities, or personnel that are affected or could be affected



# Self-Report and Self-Log—Root Cause

## Root Cause

- Explain what caused the noncompliance to occur
- Ask the five “why” questions
  - If human error occurred, why did the human error occur?
- The mitigation and prevention of recurrence should be directly tied to the noncompliance



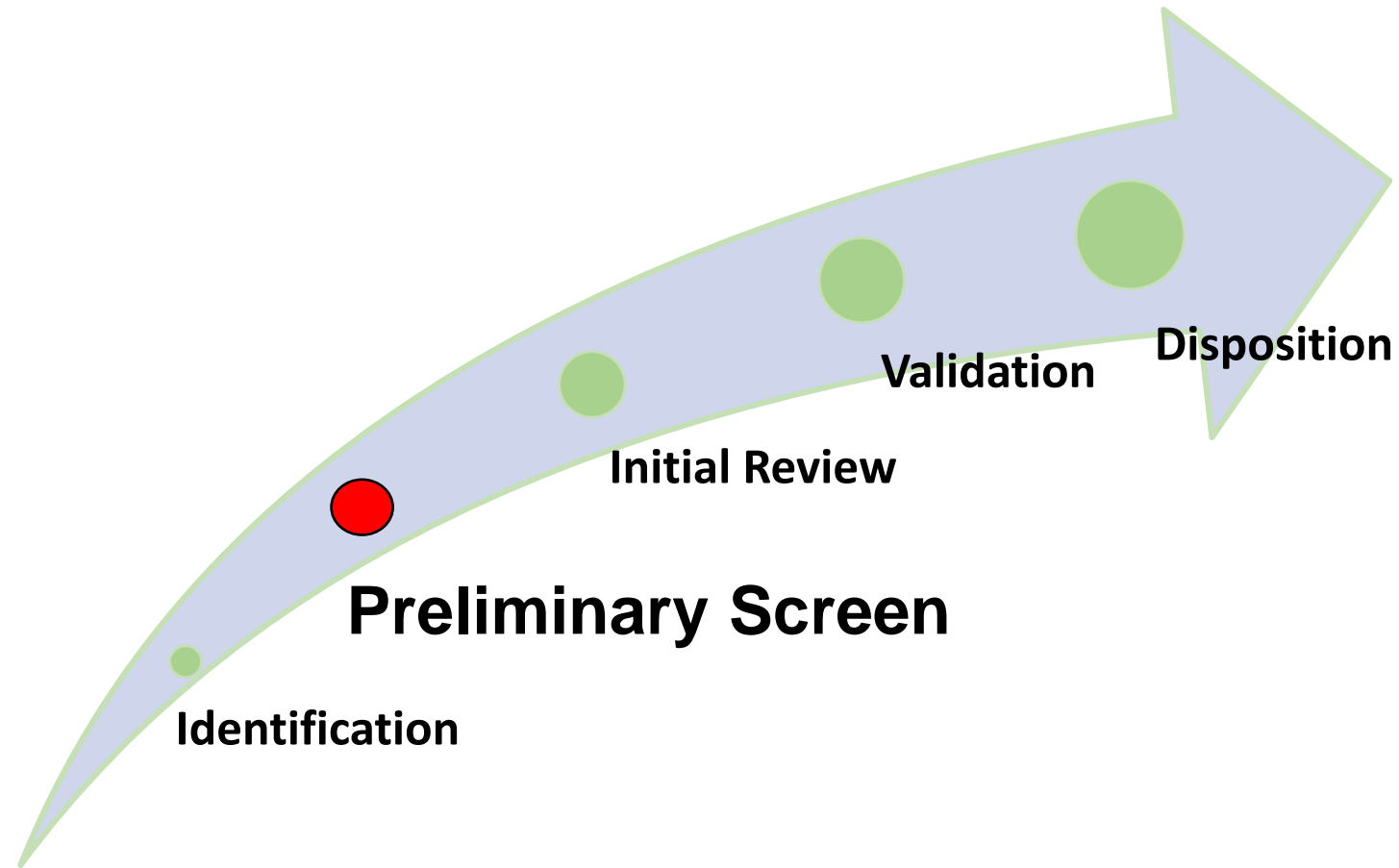
# Self-Report and Self-Log—Mitigating Activities

## Completed or In-Progress Mitigating Activities

- Activities to:
  1. End the noncompliance
  2. Detect and prevent potential recurrence
- Description of each activity
- Must address root cause
- Actual or expected completion date for each activity



# Preliminary Screen! What's That?



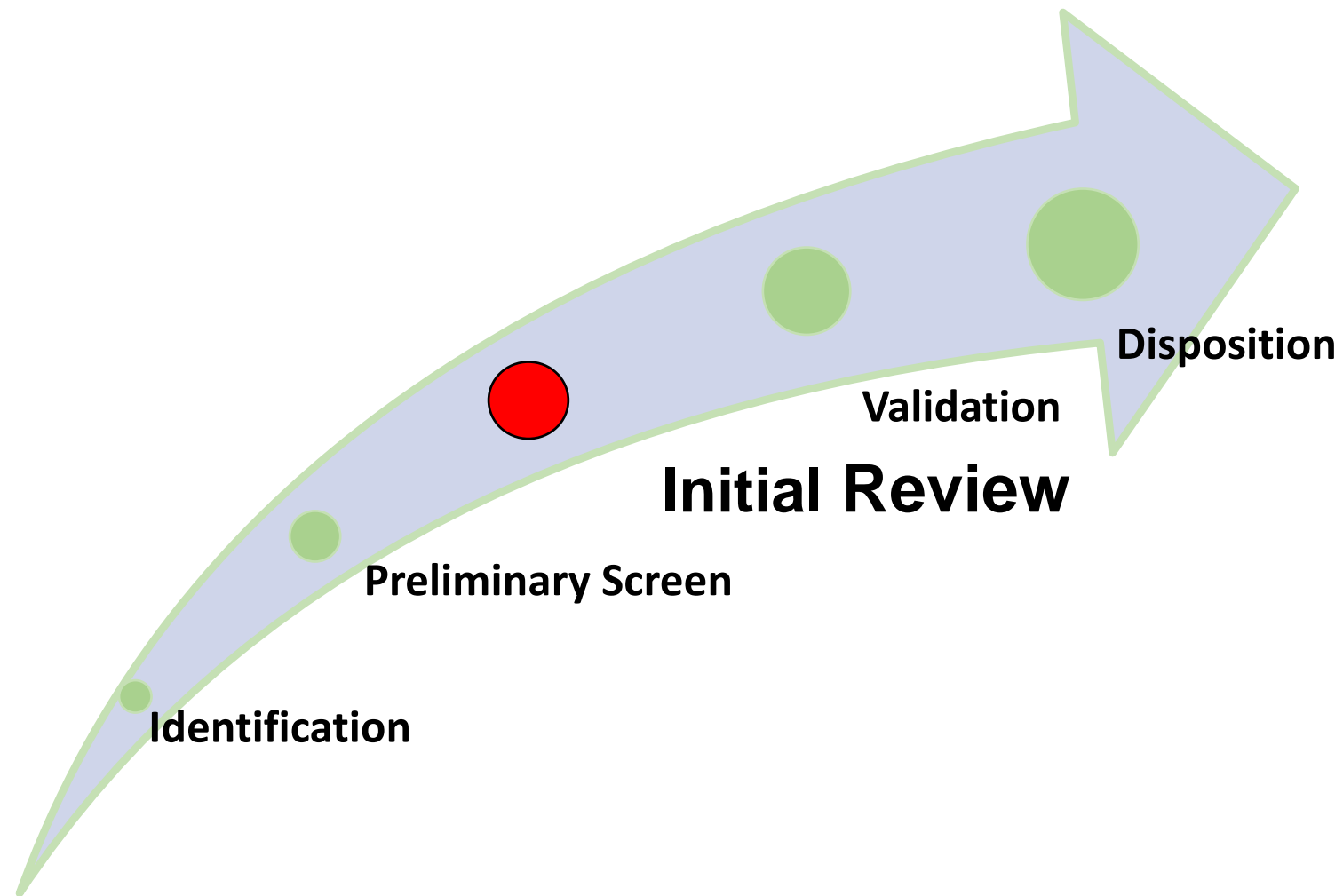
# Preliminary Screen Test—Pass or Fail

## The Preliminary Screen Addresses:

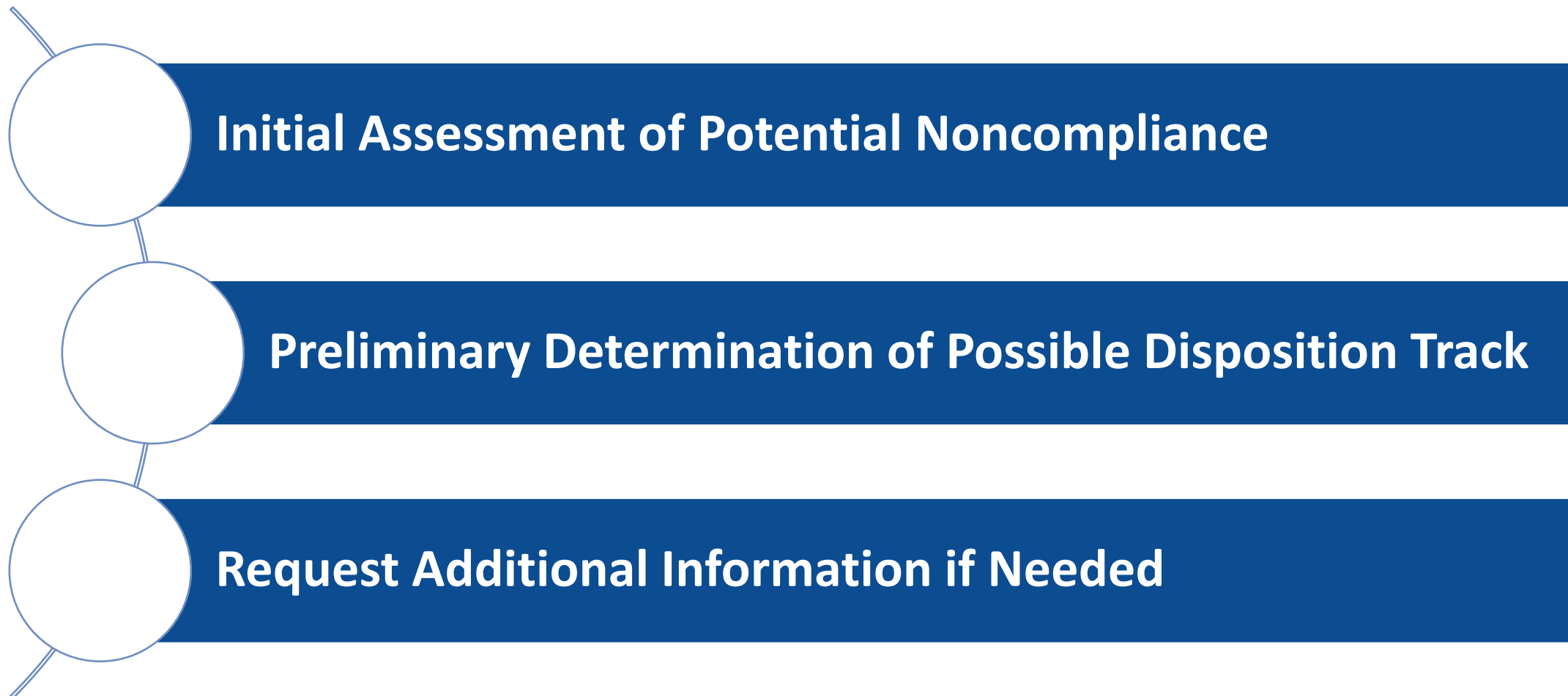
- Is the Standard applicable to the registered entity?
- Is the Standard effective at the time of the potential noncompliance?
- Is there a current Open Enforcement Action?



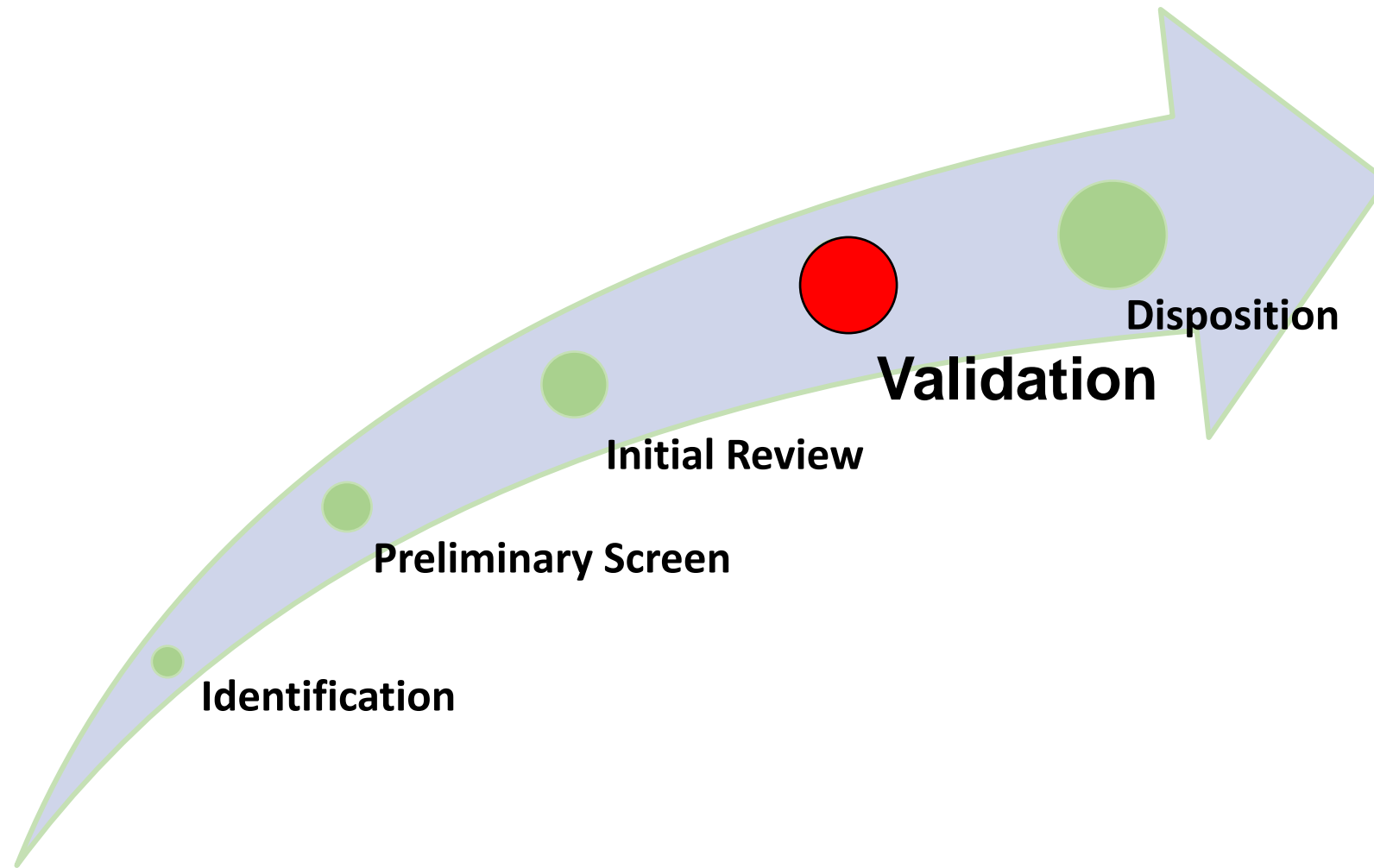
# Step Three—Initial Review



# Initial Review



# Violation Process—Validation



# Documenting Enforcement Conclusions

- Gathering and evaluating evidence
- Determining the root cause and risk
- Determining the disposition track
- Reviewing mitigating activities to address the root cause, remediate the issue, and prevent recurrence



# Mitigation Activities vs. Mitigation Plan

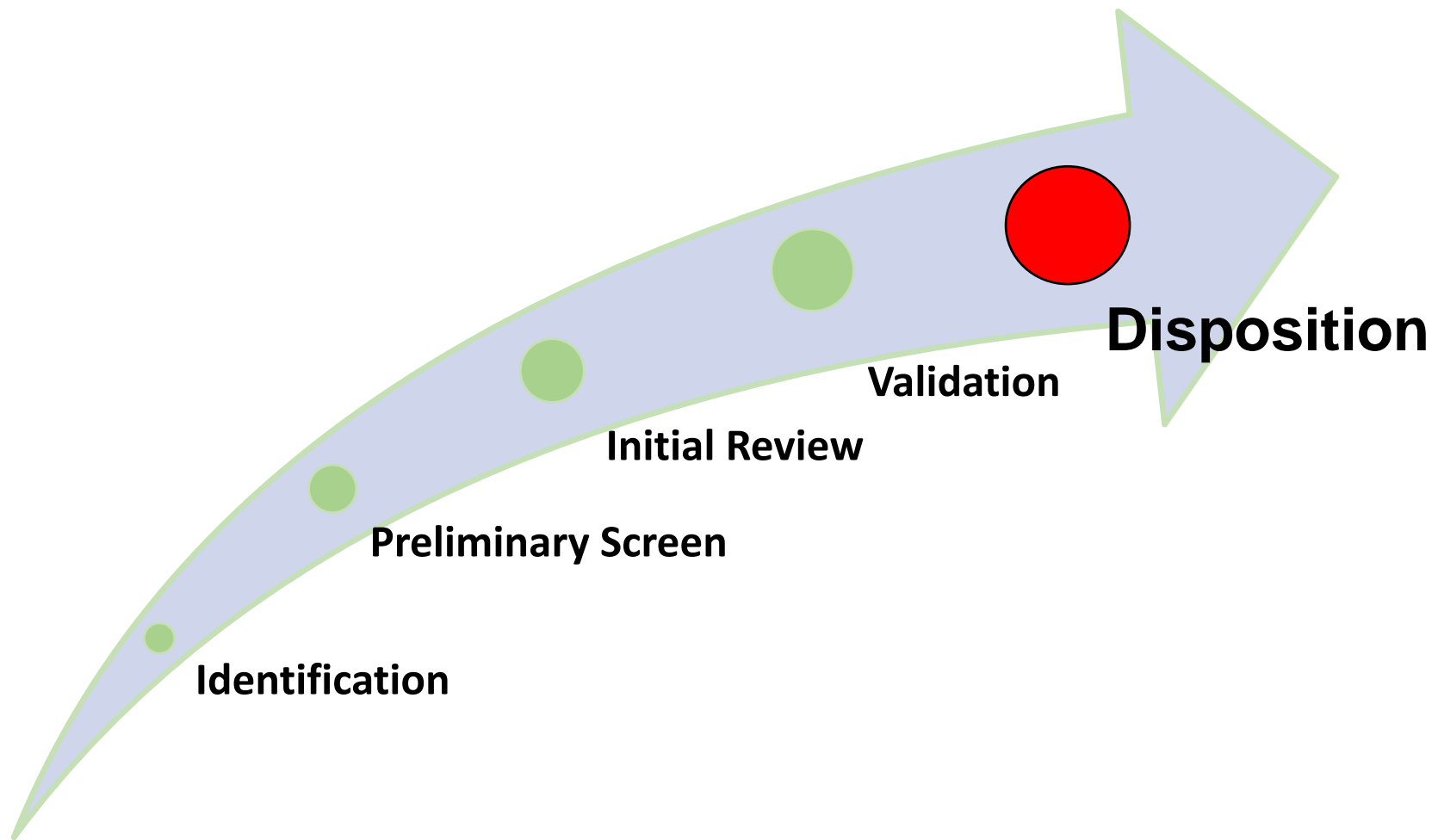
## Mitigation Activities

- Streamlined approach to Mitigation
- Must be completed within one year of the submission of the noncompliance to FERC
- In some cases, may not require evidence to verify completion

## Formal Mitigation Plan

- More Formal with enhanced tracking
- Each milestone must be completed by the milestone deadline, with evidence to verify
- Include description of actions to reduce risk during pendency of plan

# Violation Process—Disposition



# Methods of Disposition

**Dismissal  
(LOD)**

**Compliance  
Exception  
(CE)**

**Find, Fix,  
Track, and  
Report  
(FFT)**

**Spreadsheet  
Notice of  
Penalty  
(SNOP)**

**Notice of  
Penalty  
(NOP)**



# Dismissal

## No Finding of Noncompliance

- Additional evidence indicates compliance

## Notice of Completion of Enforcement Action

- Release of any data retention directives
- Closed



# CEs and FFTs

## Compliance Exception

## Find, Fix, Track, and Report

- Streamlined processes with no monetary penalty
- Mitigation must be completed within 12 months of processing
- FERC 60-day review period



# CEs and FFTs—Differences

## Compliance Exception

- Minimal risk
- Not directly considered as part of the entity's compliance history

## Find, Fix, Track, and Report

- Minimal to moderate risk
- Becomes part of the entity's compliance history



# SNOPs and NOPs

## Spreadsheet Notice of Penalty

- Minimal or moderate risk
- More streamlined penalty disposition
- Part of compliance history

## Notice of Penalty

- Serious, moderate, or minimal risk issues
- Larger penalties than SNOPs
- Part of compliance history



# SNOPs and NOPs—Factors to Consider

**Was There an Event?**

**What Was the Severity of the Risk?**

**Was There Any Actual Harm?**

**Is the Violation Mitigated?**

**Size of the Entity**

**Compliance History**

**Amount of the Penalty**



# Option to Request a Hearing

A registered entity can request a hearing to contest the following:

Alleged Violation

Proposed Penalty

Rejected  
Proposed **Revised**  
Mitigation Plan

# Resources



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[One-Stop Shop \(Compliance Monitoring & Enforcement Program\)](#)

**Compliance Assurance**

[Compliance Guidance](#)

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[Compliance Analysis and Certification](#)

[Compliance Hotline](#)

[ERO Enterprise Program Alignment Process](#)

[Regional Audit Reports of Registered Entities](#)

[Risk-Based Compliance Monitoring and Enforcement Program \(CMEP\)](#)

[Organization Registration and Organization Certification](#)

[Organization Certification](#)

**CIP V5 Implementation Information**

[Enforcement and Mitigation](#)

[CMEP and Vegetation Reports](#)

[Reliability Standards Audit Worksheet \(RSAWs\)](#)

[Centralized Organization Registration ERO System \(CORES\) Technology Project](#)

[Compliance and Certification Committee \(CCC\)](#)

[Consolidated Hearing Process](#)

[CIP CMEP FAQs](#)

Home > Program Areas & Departments > Compliance & Enforcement

## Compliance & Enforcement

NERC's compliance efforts are comprised of key activities.

**Compliance Monitoring** is the process used to assess, investigate, evaluate, and audit in order to measure compliance with NERC Reliability Standards. Standards are developed, adopted, and approved through the Reliability Standards Development program and placed into effect pursuant to FERC orders or to applicable authorities in other North American jurisdictions. This statutory responsibility is set forth in section 215(e) of the Federal Power Act as well as 18 C.F.R. §39.7.

**Compliance Enforcement** is the process by which NERC issues sanctions and ensures mitigation of confirmed violations of mandatory NERC Reliability Standards. As part of these efforts, NERC can also issue directives to immediately address and deter new or further violations, irrespective of their presence or status (i.e., confirmed or alleged). Sanctioning of confirmed violations is determined pursuant to the NERC Sanction Guidelines and is based heavily upon the Violation Risk Factors and Violation Severity Levels of the standards requirements violated and the violations' duration. Entities found in violation of any standard must submit a mitigation plan for approval by NERC and, once approved, must execute this plan as submitted.

**Regional Entity Compliance Monitoring and Enforcement Programs** NERC relies on the Regional Entities to enforce the NERC Reliability Standards with



**Program Contacts**

[NERC Certification](#)

[NERC Registration](#)

[NERC Enforcement](#)

**Calendar**

[View Compliance Events](#)

**Standards, Compliance, and Enforcement Bulletins**

- ▶ **Standards, Compliance, and Enforcement Bulletin - June 21–26, 2022**  
June 21, 2022
- ▶ **Standards, Compliance, and Enforcement Bulletin - June 13–20, 2022**  
June 13, 2022
- ▶ **Standards, Compliance, and Enforcement Bulletin - June 6–12, 2022**  
June 06, 2022
- ▶ **Standards, Compliance, and Enforcement Bulletin - May 31–June 5, 2022**  
May 31, 2022
- ▶ **Standards, Compliance, and Enforcement Bulletin - May 23–31, 2022**

# Resources

[Compliance Assurance](#)  
[Compliance Guidance](#)  
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[CIP CMEP FAQs](#)

## Enforcement and Mitigation

The Enforcement and Mitigation page provides a consolidated and sortable listing of monthly filings to the Federal and Regulatory Commission. This information is provided for informational purposes only. In the event of a conflict between information on this page and filings, the filings govern.

[FERC, NERC Outline CIP Procedures in New White Paper](#) - Published 9/23/2020

Under the *Second Joint Staff White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protection Reliability Standards* (Docket No. AD19-18-000), NERC will no longer publicly post redacted versions of CIP noncompliance filings and submittals.

### Individual NERC Noncompliance Filings to FERC

Click the year for individual NERC noncompliance filings to FERC. All regulatory file documents listed are posted in descending order by filing date.

[2022](#) | [2021](#) | [2020](#) | [2019](#) | [2018](#) | [2017](#) | [2016](#) | [2015](#) | [2014](#) | [2013](#) | [2012](#) | [2011](#) | [2010](#) | [2009](#) | [2008](#)

### Enforcement and Mitigation - Current Year

Type	Title	Date
<a href="#">+ Compliance Exceptions (CEs) (1)</a>		
<a href="#">+ Find, Fix, Track, and Reports (FFTs) (1)</a>		
<a href="#">+ Searchable Spreadsheet (1)</a>		
<a href="#">+ Spreadsheet Notice of Penalty (SNOPs) (1)</a>		

### Enforcement and Mitigation - Previous Years

Type	Title	Date
<a href="#">+ Compliance Exceptions (CEs) (7)</a>		
<a href="#">+ Find, Fix, Track, and Reports (FFTs) (7)</a>		

### Additional Resources

URL

[Registered Entity Self-Report and Mitigation Plan User Guide](#)


[Risk-Based CMEP](#)

[Self-Logging Program User Guide](#)

[Violations Themes - CIP Violations \(presentation\)](#)

[Violations Themes - CIP Violations \(webinar\)](#)

### Templates

Type	Title	Date
	<a href="#">Drafting Templates for CEs, FFTs, and SNOPs</a>	1/1/2021



# Resources

## ☐ NERC

- [Rules of Procedure](#)
  - Appendix 4C, Compliance Monitoring and Enforcement Program
  - Appendix 2A, Definitions
- [Registered Entity Self-Report and Mitigation Plan User Guide](#)
- [Self-Logging Program User Guide](#)
- [Instructions for using Align](#)

## ☐ Texas RE Enforcement

- Self-Reporting
- Self-Logging Program
- Mitigation Plan Submission



# Contacts



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**512-583-4935**

**Send any questions to Enforcement at [enforcement@texasre.org](mailto:enforcement@texasre.org)**



The background of the slide features a blurred Texas state flag on the left and a close-up of a wind turbine's hub and blades on the right, all set against a clear blue sky.

# Questions?



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