

INSIGHTS

FERC Issues Policy Statement on Compliance

October 21, 2008

The Federal Energy Regulatory Commission (FERC) revised its Policy Statement on Compliance October 16. The revision posits four factors FERC will take into account when considering whether to reduce or eliminate civil penalties for violations: (1) The role of senior management in fostering compliance; (2) Effective preventative measures to ensure compliance; (3) Prompt detection, cessation, and reporting of violations; and (4) Remediation efforts. FERC adopted a "compliance credit" approach resembling that of the Securities Exchange Commission and the Federal Sentencing Guidelines. Where a violation is not serious (does not involve significant harm or damage to the integrity of FERC's regulatory program), and the company has all 4 elements of vigorous compliance in place, FERC may then reduce a company's penalty to zero.