

**Morgan Lewis**

# Developing A Reliability Compliance Program

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# Effective Compliance

- **Does Require:**
  - Corporate leadership
  - Aligned incentives
  - Staff “buy-in”
  - Careful attention to details
  - Training
- **Does NOT Require:**
  - Sarbanes-Oxley level expenditures
  - Dropping legitimate business opportunities

# Compliance is a Risk Management Investment

- Many utilities are already implementing compliance programs in pieces.
- Integrating the efforts into a coherent whole is necessary and can be done efficiently.
- Implementing a compliance program can be one of your most cost-effective risk management investments that a company undertakes.

# Compliance Program Characteristics

- Senior management support
- Cooperation with Commission
- Formal establishment
- Demonstrable independence of compliance team
- Ongoing effort
- Adequate resources

# Best Practices for FERC Compliance Programs

- Program development and documentation
- Program assessments
- Training (broad and targeted)
- Culture Change
- Hotline/Helpline
- Self-reporting policies
- Independent investigation policies
- Policies and Procedures for regulatory audits, investigations or other enforcement actions
- Whistleblower Policies

# FERC's Enforcement Policy Statement

## FACTORS "IN THE BALANCE" AT FERC

### Severity Factors

- Harm
- Fraud
- Intent
- Prior Record
- Management Issues
- Method of Revelation
- Financial Stability
- Non-Cooperation

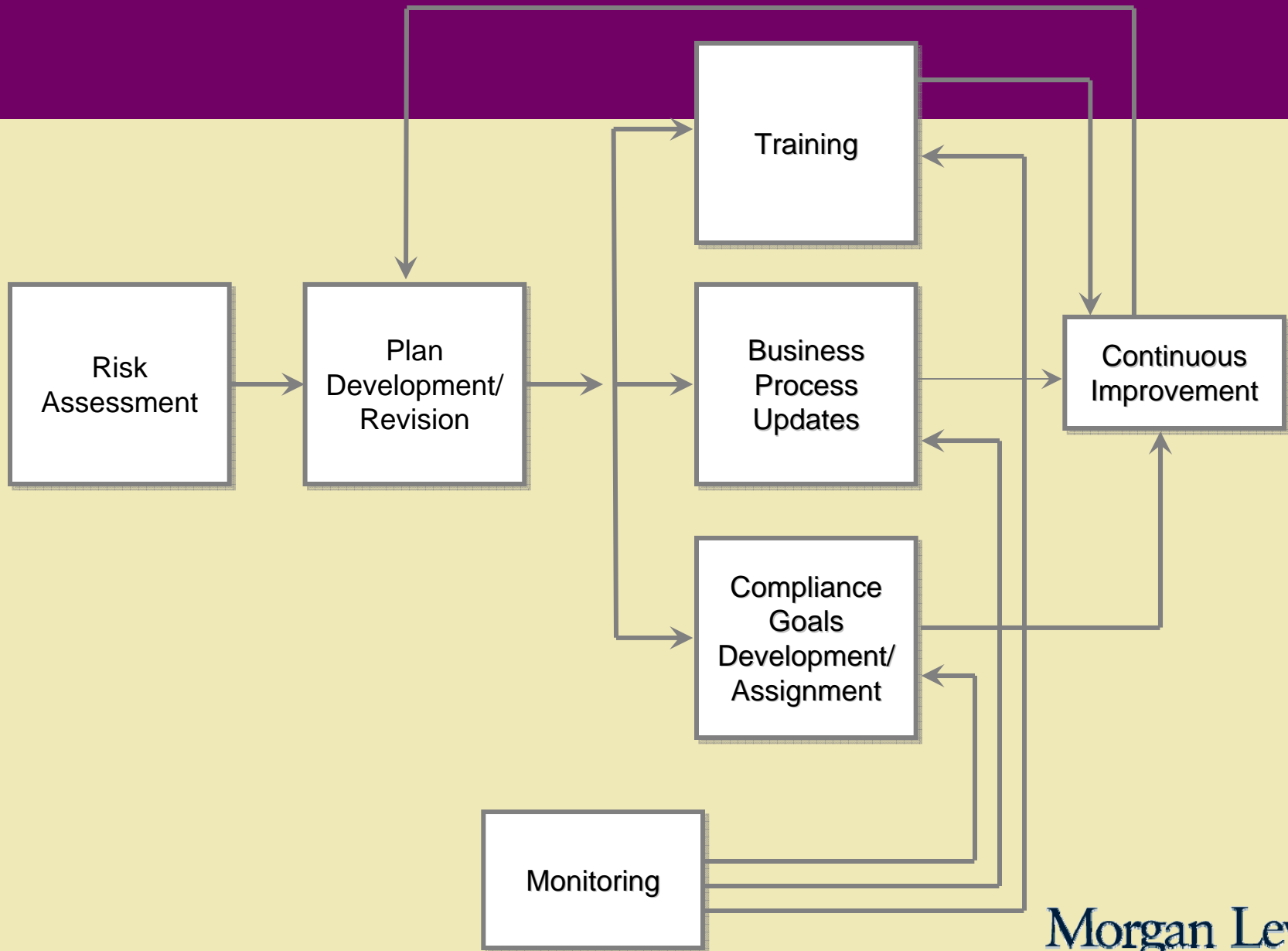
### Mitigation Factors

- Internal Compliance
- Self-Reporting
- Co-operation

## Why Bother with a Compliance Plan?

- An effective compliance program and meaningful systematic monitoring can:
  - Ensure that management directives are clearly communicated to officers, directors and employees.
  - Ensure that “no one ever told me” is never a justification for inappropriate action.
  - Foster compliance with Sarbanes Oxley and other federal and/or state mandates.
  - Mitigate risk for the corporation, employees and supervisors.

# Compliance Implementation Process



# What are the Basic Elements of an Effective Compliance Program

- **Design**
  - Assign responsibility for Reliability Standard requirements
  - Assess potential weaknesses
  - Develop a plan for addressing gaps
- **Deployment**
  - Use an information-sharing website to track compliance
  - Train appropriate personnel
- **Monitoring**
  - Track requirements to ensure they are met
  - Audit compliance with requirements

## Core Considerations in the Design Phase

- Accurately identify the scope of your operations and the regulatory responsibilities applicable to each activity.
- Recognize that a compliance plan must be sufficiently specific to provide meaningful guidance yet adequately flexible to recognize the breadth of some regulatory mandates.
- Avoid mere exhortations.
- Use clear language.

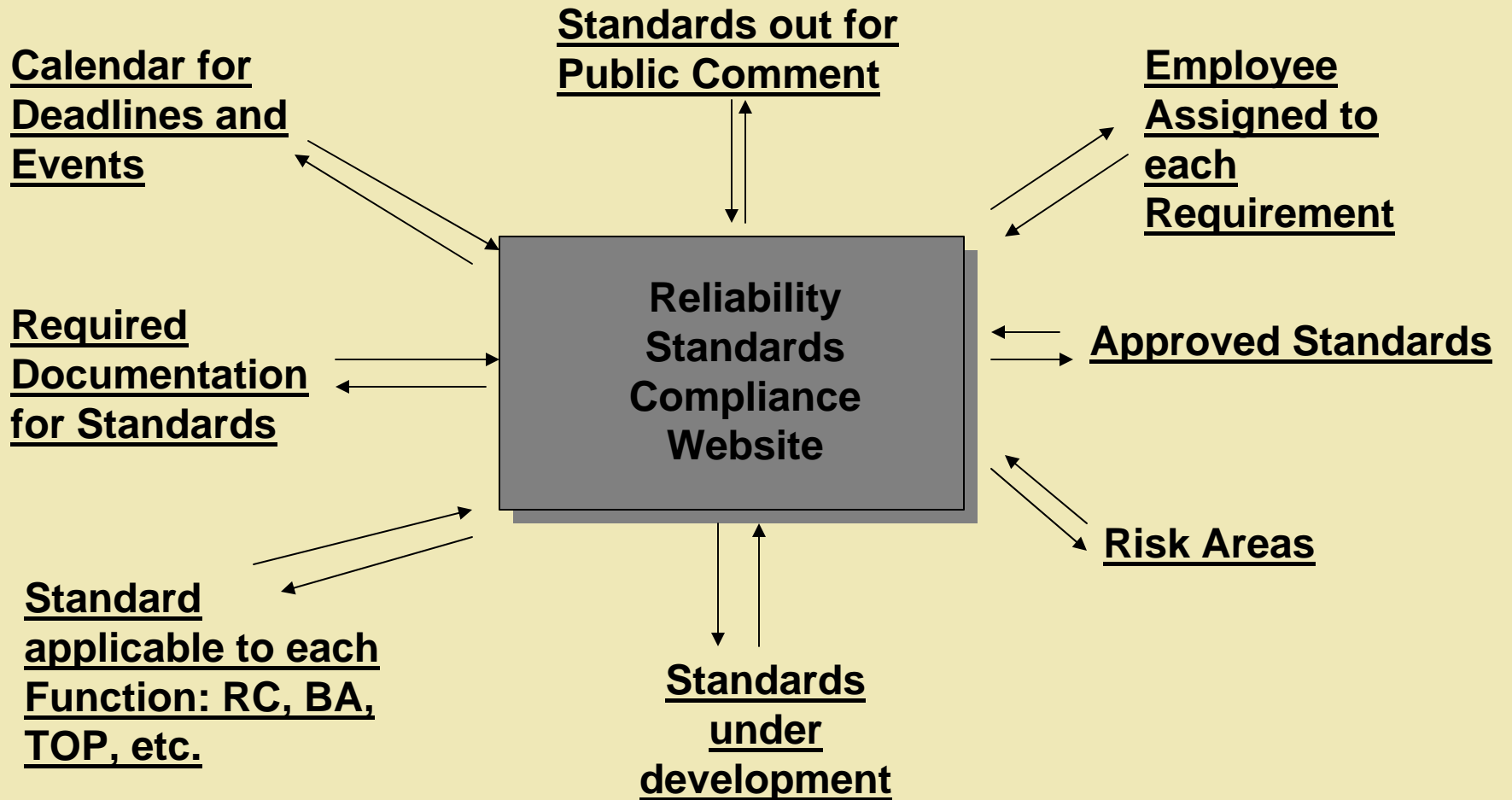
## What is the single most important message in a compliance plan?

- No compliance plan can anticipate any and all problems that arise in the ordinary course of business.
- A crucial element of any compliance plan is to identify where interested persons can go to raise issues and concerns.
- A closely related element is to provide meaningful and effective assurance against retaliation for those who raise compliance-related issues.

# Deployment

- A simple drop, sign and run is insufficient.
- Training should accompany the plan.
- New employees should be timely trained.

# Internal “Share Point” Website



# Monitoring

- Track requirements to ensure they are met
  - Share Point website useful for tracking
  - Designate personnel for each requirement
- Audit compliance with requirements
  - Use Share Point website to audit compliance
  - Use Share Point as central database for documents