

## Agenda Board of Trustees Compliance Committee

November 3, 2010 | 10:00-11:45 a.m. ET  
Grand Hyatt Atlanta  
3300 Peachtree Rd. NE  
Atlanta, GA 30305  
404-237-1234

### **Introductions and Chair's Remarks**

### **NERC Antitrust Compliance Guidelines**

- 1. Overview of Meeting Objectives and Process\***
- 2. Consent Agenda\* — Approve**
  - a. Minutes — August 4, 2010
  - b. Future Meetings
- 3. Compliance Committee Mandate\* — Review**
- 4. Review Compliance Committee self-assessment and confirm distribution of self-assessment (December timeframe) to determine how effectively the Compliance Committee is meeting its responsibilities\* — Review**
- 5. Streamlining Enforcement Process — Review**
- 6. NERC Staff Update\***
  - a. Compliance Operations
    - i. CANs and feedback mechanisms
    - ii. Revised regional audit/oversight program
    - iii. 2011 annual implementation plan and AML
    - iv. 706-B (October 15 filing update)
    - v. Update on top 10 most violated standards and analysis papers

b. Compliance Enforcement

- i. Trend on non-confirmed violations awaiting submittal of mitigation plans
- ii. Violations processing trends

**7. Other Matters**

\*Background material included.

## Antitrust Compliance Guidelines

### I. General

It is NERC's policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC's compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC's antitrust compliance policy is implicated in any situation should consult NERC's General Counsel immediately.

### II. Prohibited Activities

Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information and participants' expectations as to their future prices or internal costs.
- Discussions of a participant's marketing strategies.
- Discussions regarding how customers and geographical areas are to be divided among competitors.

- Discussions concerning the exclusion of competitors from markets.
- Discussions concerning boycotting or group refusals to deal with competitors, vendors or suppliers.
- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC's General Counsel before being discussed.

### **III. Activities That Are Permitted**

From time to time decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC's Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC reliability standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising reliability standards, special operating procedures, operating transfer capabilities, and plans for new facilities.
- Matters relating to the impact of reliability standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system.
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities.
- Matters relating to the internal governance, management and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.

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## Meeting Minutes Board of Trustees Compliance Committee

August 4, 2010 | 10:00-11:45 a.m. EDT  
Toronto Marriot Eaton Centre  
525 Bay Street  
Toronto, Ontario M5G 2L2 Canada  
416-597-9200

Chairman Paul Barber called to order a duly noticed open meeting of the Board of Trustees Compliance Committee of the North American Electric Reliability Corporation on August 4, 2010, at approximately 10:05 a.m., local time, and a quorum was declared present. The agenda and list of attendees are attached as **Exhibits A** and **B**, respectively.

### **NERC Antitrust Guidelines**

Chairman Barber acknowledged NERC's Antitrust Compliance Guidelines.

### **Overview of Meeting Objectives and Process**

Chairman Barber reviewed the meeting's objectives.

### **Consent Agenda**

On motion of Ken Peterson, the committee approved the meeting minutes of May 11, 2010.

### **NERC Staff Update**

Michael Moon, director of compliance operations, and Joel deJesus, director of compliance enforcement, provided updates on the compliance operations and enforcement activities.

### **Compliance Operations**

Mr. Moon presented a priority list of Compliance Application Notices (CANs) that provided a projected case load and the status of each CAN. Approximately 56 issues have been identified for CAN development, five CANs have been published and two CANs are currently with NERC legal for review.

Mr. Moon also conducted a presentation for the committee on the Multi-Region Registered Entity (MRRE) Program/Process. The program's purpose is to describe the coordinated Compliance Monitoring and Enforcement (CMEP) processes that will be used by NERC and the Regional Entities for a subset of Registered Entities that meet certain aspects of the NERC Registration Criteria. This coordinated process provides for increased efficiencies in compliance resource allocation for NERC, the Regional Entities, and registered entities while maintaining the reliability of the bulk power system (BPS).

## **Compliance Enforcement**

Mr. deJesus presented a trending analysis of non-confirmed violations awaiting submittal of mitigation plans, because of an increasing number of active violations for which no mitigation plans have been submitted. There are 651 violations awaiting mitigation plans, and 20 entities account for 57%. There is no way to track mitigation plans that come in as drafts, but no real unifying theory has been identified for the trend.

Mr. deJesus also provided an update on the streamlining enforcement process. Of note were the new Notice of Penalties drafting templates, which have increased efficiency and regulatory filing.

Lastly, Mr. deJesus presented the regular quarterly analysis of violations processing trends. The number of active violations continues to climb each month, due primarily to the large number of violations of CIP-related standards.

## **Adjournment**

There being no further business, Chairman Barber adjourned the meeting at 11:40 a.m. EDT.  
Submitted by,

A handwritten signature in black ink, appearing to read "Joel deJesus". The signature is stylized with large, sweeping loops.

Joel deJesus  
Committee Secretary

## Agenda

# Compliance Committee Meeting

August 4, 2010 | 10:00-11:45 a.m. EDT  
Toronto Marriot Eaton Centre  
525 Bay Street  
Toronto, Ontario M5G 2L2 Canada  
416-597-9200

### **Introduction and Chairman's Remarks**

### **NERC Antitrust Guidelines**

1. **Overview of Meeting Objectives and Process**
2. **Consent Agenda — Approve**
  - a. Minutes
    - i. May 11, 2010
  - b. Future Meetings
3. **NERC Staff Update**
  - a. **Compliance Operations**
    - i. Compliance Application Notices — Recently posted and priority list by standard with issue identified
    - ii. Multi-Region Registered Entity (MRRE) Program/Process
    - iii. Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List
    - iv. Top 10 Most Violated Standards and Analysis Papers
  - b. **Compliance Enforcement**
    - i. Trend on Non-Confirmed Violations Awaiting Submittal of Mitigation Plans
    - ii. Streamlining Enforcement Process
    - iii. Violations Processing Trends
4. **Other Matters**

**Attendee List for August 4, 2010  
NERC Board of Trustees Compliance Committee Meeting**

**Compliance Committee Members**

John Q. Anderson, Ex-officio  
Paul F. Barber, Chairman  
Tom Berry  
Jim Goodrich

Fred Gorbet  
Ken Peterson  
Bruce Scherr  
Jan Schori

**Guests**

Vicky Bailey, NERC Board of Trustees  
Janice Case, NERC Board of Trustees  
Dave Goulding, NERC Board of Trustees  
Ed Schwerdt, NPCC  
Harvey Reed, NPCC  
Jennifer Budd Mattiello, NPCC  
Dan Schoenecker, MRO  
Sara Patrick, MRO  
Stacy Dochoda, SPP  
Larry Grimm, TRE  
Allen Mosher, APPA  
Susan Court, Hogan & Hartson  
Tina McClellan, NERC  
Liz Merlucci, NERC  
Earl Shockley, NERC  
Mark Weatherford, NERC  
Mark Lauby, NERC  
Mike Walker, NERC  
Herb Schrayshuen, NERC  
Gerry Adamski, NERC  
Joel deJesus, NERC  
Valerie Agnew, NERC  
Michael Moon, NERC  
Gerry Cauley, NERC CEO  
David Cook, NERC  
Rebecca Michael, NERC  
Dave Nevius, NERC  
Tom Galloway, NERC  
Sue Ivey, Exelon  
Steven T. Neumann, Exelon  
Tom Bowe, PUM  
Sam Holeman, Duke Energy  
Scott Henry, SERC  
Carter Edge, SERC  
Tim Gallagher, RFC  
Ray Palmieri, RFC  
Jacquie Smith, RFC  
Linda Campbell, FRCC  
Sarah Rogers, FRCC  
Pierre Guimond, CEA

Carol Chinn, ATC  
Nabil Hitti, National Grid  
Gayle Mayo, IMPA  
Tim Arlt, NPPD  
Michelle D'Antonio, MRC  
Terry Huval, MRC  
Scott Helyer, MRC  
Chris Hatovsky, MRC  
Jack Cashin, EPSA  
Thomas Burgess, First Energy  
Clay Smith, GSO  
Dave Boguslawslei, Northeast Utilities  
Janet Sena, NERC  
Lou Oberski, Dominion  
Michael Gildsa, Dominion  
Ed Davis, Entergy  
Jeff Mueller, PSE&G  
William Ball, Southern Company Transmission  
Bob Schaffeld, Southern Company Transmission  
Marc Butts, Southern Company Transmission  
Jeff Floyo, Southern Company Transmission  
Mark Bennett, Competitive Power Ventures  
Charles Yeung, Southwest Power Pool  
Constance White, WECC  
Steve Goodwill, WECC  
Louise McCarren, WECC  
Martin Kirkwood, FERC  
Roger Moris, FERC  
Joe McClelland, FERC  
Terry Bilke, Midwest ISO  
Chuck Manning, ERCOT  
Barry Lawson, NRECA  
Bill Gallagher, Vermont Public Power  
Jim Fama, EEI  
David Dworzak, EEI  
Hertzel Shamash, PP&L  
Ben Li, Bar Li Associates  
David Brown, Ontario Energy Board  
Jim Davidson, Ontario Energy Board  
Patrick Brown, Canadian Electricity Association



Linda Poirier, MOE & Infrastructure  
Bob Tallman, E ON US  
Tab Gangopadhyay, National Energy Board  
Gilbert Neveu, Quebec Energy Board  
Dale Landgran, American Transmission Co.  
Jim Keller, Wisconsin Electric Power Company  
Sharon Sayler, Global Business Reports  
Thomas Willatt, Global Business Reports

## Board of Trustees Compliance Committee

### 2011 Meeting Dates

Open Meetings		Closed Meetings		Closed-Closed Meetings	
		January 10	10 a.m.–noon	January 10	1–3 p.m.
February 16–17	Phoenix, AZ (TBC)	February 10	10 a.m.–noon	February 15	<u>4–6 p.m.</u>
		March 11	10 a.m.–noon	March 11	1–3 p.m.
		April 11	10 a.m.–noon	April 11	1–3 p.m.
May 10–11	Arlington, VA	May 16	10 a.m.–noon	May 9	<u>4–6 p.m.</u>
		June 10	10 a.m.–noon	June 10	1–3 p.m.
		July 11	10 a.m.–noon	July 11	1–3 p.m.
August 3–4	Vancouver	August 10	10 a.m.–noon	August 2	<u>4–6 p.m.</u>
		September 12	10 a.m.–noon	September 12	1–3 p.m.
		October 11	10 a.m.–noon	October 11	1–3 p.m.
November 2–3	Atlanta, GA	November 10	10 a.m.–noon	November 1	<u>4–6 p.m.</u>
		December 12	10 a.m.–noon	December 12	1–3 p.m.

## **Revisions to Board of Trustees Compliance Committee Mandate**

### **Action Required**

Approve the revised Board of Trustees Compliance Committee mandate.

### **Background and Summary**

Included for the Committee's review is a draft mandate incorporating revisions to better reflect the Committee's business. At its Open Meeting, the Committee will consider referral of the revised mandate to the Committee on Corporate Governance and Human Relations for recommendation to the Board of Trustees in February 2011.

Specifically, the proposed revisions:

- Eliminate specific reference to compensation of Committee members, which is now determined by a separate compensation model approved by the Board of Trustees;
- Clarify that the Committee will review possible, alleged and/or confirmed violations either individually or through trend analyses;
- Clarify that the Committee will review mitigation plans either individually or through trend analyses; and
- Clarify that the Committee oversees the preparation and filing of notices of penalty and other formal documents, but may delegate to NERC staff the authority to make such filings subject to Committee oversight.

## Board of Trustees Compliance Committee Mandate

Approved by Board of Trustees: February 16\_\_, 20102011

1. The Compliance Committee (CC) shall be composed of not less than three and not more than seven members of the Board of Trustees (board).
2. The members of the CC shall be appointed or reappointed by the board at the regular meeting of the board immediately following each Annual Meeting of the Members Committee. Each member of the CC shall continue to be a member thereof until a successor is appointed, unless a member resigns or is removed or ceases to be a trustee of the corporation. Where a vacancy occurs at any time in the membership of the CC, it may be filled by the board.
3. The Board of Trustees or, in the event of their failure to do so, the members of the CC, shall appoint a chair from among their members. A member of the NERC staff shall serve as the non-voting secretary.
4. The CC shall meet monthly by conference call or in person. Meetings may occur at the same place in conjunction with the regular board meetings of the corporation, or as determined by the members of the CC, using the same meeting procedures established for the board.
5. ~~The compensation of the members of the CC, including the chair of the CC, shall be the same as established by the board for the other committees of the board.~~
- 6.5. The CC shall be responsible for audits of the NERC Compliance Monitoring and Enforcement Program to meet board and governmental authority requirements on a three-year basis. The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.
- 7.6. The CC shall review, in the aggregate or individually, as the CC deems necessary, the violations, regardless of their status, of the most recent month, known to the Compliance Monitoring and Enforcement Program staff as reported by regional entities, discovered by the NERC staff, or discovered from any other source.
- 8.7. The CC shall review and advise the board on the progress of individual operating entities in mitigating mitigation of possible, alleged and confirmed violations.

- | ~~9.8.~~ The CC shall review the progress of regional entities in processing all allegations of violations of NERC reliability standards in accordance with the NERC Rules of Procedure.
- | ~~10.9.~~ The CC shall serve as the appeal body for any appeals of compliance violations, penalties, or sanctions.
- | ~~11.10.~~ The CC shall serve as the appeal body for any appeals of findings resulting from audits of the regional entity implementation of the NERC Compliance Monitoring Enforcement Program heard by the NERC Compliance and Certification Committee.
- | ~~12.11.~~ The CC shall ~~review~~oversee the preparation and filing by NERC Staff of all Notices of Penalty or Sanction, Settlement Agreement, and Remedial Action Directive documents ~~and direct NERC staff to file~~ with FERC and other governmental authorities, and the CC may delegate authority to NERC Staff to dispose of CMEP matters subject to oversight by and terms and conditions set by the CC. or remand to the appropriate regional entity.
- | ~~13.12.~~ The CC shall hear any challenges by candidates for inclusion on the compliance registry.
- The CC shall be responsible for audits of the NERC Organization Registration and Certification Program on a three-year basis. The audit shall evaluate the success and effectiveness of the NERC Organization Registration and Certification Program in achieving its mission.
- | ~~14.13.~~ The CC shall report to the board at each regularly scheduled meeting of the board.
- | ~~15.14.~~ The CC shall recommend to the board such actions as may further the purposes of the NERC Compliance Monitoring and Enforcement Program and Organization Registration and Certification Program.
- | ~~16.15.~~ The CC shall review this mandate annually and recommend to the board Corporate Governance and Human Resources Committee any changes to it that the CC considers advisable.
- | ~~17.16.~~ The CC shall complete a self-assessment annually to determine its effectiveness.
- | ~~18.17.~~ The CC shall perform such other functions as may be delegated from time to time by the board.

## **Review of Compliance Committee Self-Assessment Form**

### **Action Required**

None

### **Background and Summary**

Included for the Committee's review is a draft 2010 self-assessment form. The Committee will discuss this form at its Open Meeting so that the members can provide their self-assessment to Chairman Barber in December.

## Board of Trustees Compliance Committee Effectiveness Self-Assessment for 2010

### Levels of Effectiveness

- 4 = Satisfactory (“fully meets the expected and required standard of performance”)
- 3 = Adequate (“generally meets the required standard of performance”)
- 2 = Review for adequacy (“a question exists in the rater’s mind as to the level of performance”)
- 1 = Needs prompt attention (“level of performance is clearly unsatisfactory”)
- NA = Not applicable, or not able to rate

Elements from Committee Mandate	Levels of Effectiveness 4-3-2-1
<ul style="list-style-type: none"> <li>• The CC shall be responsible for audits of the NERC Compliance Monitoring and Enforcement Program to meet board and governmental authority requirements on a three year basis. The audit shall evaluate the success and effectiveness of the NERC Compliance Monitoring and Enforcement Program in achieving its mission.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall review the violations, regardless of their status, of the most recent month, known to the Compliance Monitoring and Enforcement Program staff as reported by regional entities, discovered by the NERC staff, or discovered from any other source.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall review and advise the board on the progress of mitigation of possible, alleged and confirmed violations.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall review the progress of regional entities in processing all allegations of violations of NERC reliability standards in accordance with the NERC Rules of Procedure.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall serve as the appeal body for any appeals of compliance violations, penalties, or sanctions.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall serve as the appeal body for any appeals of findings resulting from audits of the regional entity implementation of the NERC Compliance Monitoring Enforcement Program heard by the NERC Compliance and Certification Committee.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall review all Notice of Penalty or Sanction, Settlement Agreement, and Remedial Action Directive documents and direct NERC staff to file with FERC and other governmental authorities or remand to the appropriate regional entity.</li> </ul>	
<ul style="list-style-type: none"> <li>• The CC shall hear any challenges by candidates for inclusion on the compliance registry.</li> </ul>	

Elements from Committee Mandate	Levels of Effectiveness 4-3-2-1
<ul style="list-style-type: none"> <li>The CC shall be responsible for audits of the NERC Organization Registration and Certification Program on a three-year basis. The audit shall evaluate the success and effectiveness of the NERC Organization Registration and Certification Program in achieving its mission.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall review the Regional Entity Audit Program development, conduct and results; to include the metrics and measures.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall report to the board at each regularly scheduled meeting of the board.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall recommend to the board such actions as may further the purposes of the NERC Compliance Monitoring and Enforcement Program and Organization Registration and Certification Program.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall review its mandate annually and recommend to the board Corporate Governance and Human Resources Committee any changes to it that the CC considers advisable.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall complete a self-assessment annually to determine its effectiveness.</li> </ul>	
<ul style="list-style-type: none"> <li>The CC shall perform such other functions as may be delegated from time to time by the board.</li> </ul>	
<b>Observations and Opportunities to Improve:</b>	

<b>Observations and Opportunities to Improve:</b>

Name: \_\_\_\_\_



## **Streamlining Enforcement Process**

### **Action Required**

None

### **Background and Summary**

At the Committee's February 15, 2010 meeting in Phoenix, AZ, NERC staff provided a review of status of its development of an Abbreviated Notice of Penalty format for processing violations. At the time of that meeting, NERC had filed two Abbreviated Notices of Penalty with the Federal Energy Regulatory Commission (FERC). FERC issued an order stating it was not engaging in further review of those Notices of Penalty.

At the Committee's May 11, 2010 meeting in Baltimore, MD, NERC staff presented a draft Notice of Penalty Process document providing an overall framework for streamlining and gaining efficiencies in its processing of Notices of Penalties. The process document was premised on NERC and Regional Entity enforcement staff categorizing cases based on the risks to the bulk power system and scaling record evidence, scope, and process requirements based on that categorization.

Since that time, NERC staff has received comments on that draft Notice of Penalty Process from stakeholders. NERC staff has begun to implement that revised process. For settlement agreements and notices of confirmed violations that the Region Entities have submitted under older formats, NERC staff has drafted Notices of Penalty using the newer streamlined formats. For other settlement agreements and notices of confirmed violations, the Regional Entities have begun utilizing the new streamlined templates.

For the Committee's review is a revised Notice of Penalty Process draft document, which has been updated to reflect stakeholder comments and recent experience in developing Full, Abbreviated, and Deficiency Notices of Penalty. This document now also includes a brief discussion of possible rules of procedure changes to provide for further streamlining of the Notice of Penalty Process.

Also included for the Committee's review is a whitepaper on Caseload Management Activities currently deployed or under consideration for dealing with the growing number of active violations in the ERO enforcement process, including a wave of violations of the CIP standards. In particular, this whitepaper discusses in depth a proposed administrative citation process to allow Regional Entities and registered entities to resolve minor violations without the filing of a Notice of Penalty with FERC.

Notice of Penalty Process  
April 28, 2010, Revised October 20, 2010

The following paper provides a framework for enforcement process improvements developed by NERC in conjunction with the Regional Entities. NERC and the Regional Entities have developed, and are in the process of implementing, a Disposition Document (Attachment 2) and differentiated levels of the Notice of Penalty (NOP) (Full, Abbreviated, and Deficiency) to attain certain efficiencies as discussed below.

## **NOP TYPES**

The three types of NOPs will determine the extent of process that will be required for an enforcement action. Each type of NOP is based on factors that a compliance enforcement authority (CEA) can apply at the outset of a case. Although a number of factors are listed under each type of NOP, they do not all have to be satisfied in order to categorize a particular case with a particular type of NOP, and they are not to be applied mechanically. Rather, the factors are intended to provide guidance to a CEA in exercising its discretion to process a case as efficiently as possible. As discussed below, the Full NOP and Deficiency NOP address the higher and lowest risk level violations, respectively, therefore it is NERC's expectation that the majority of cases going forward will fall within the Abbreviated NOP category.

With respect to enforcement matters that contain multiple violations<sup>1</sup> that qualify for different types of NOPs, the CEA should consider whether it would be more efficient to divide the violations into different processes or process them as a single NOP under the most thorough process required for all of the violations.

### **I. Full NOP**

The Full NOP would be used for any violation of any Reliability Standard that creates a "serious or substantial risk" to the bulk power system (BPS) or violations that the Regional Entity or NERC determines has something to highlight. For example, it may be that the Regional Entity determined that the violation itself warranted a full discussion or there may have been a serious concern over the registered entity's culture of compliance. The following are a few factors for consideration in identifying violations on a case-by-case basis that should be processed through to Full NOPs (although no single factor or combination of factors will be determinative of Full NOP treatment in every case):

- Violations that created a serious or substantial risk to the BPS.
- Violations that had sustained (non-momentary) or cascading outages.
- Violations that had outages that resulted in loss of load to customers for any period of time.

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<sup>1</sup> The term violation refers to alleged and confirmed violations, as applicable.

Notice of Penalty Process  
April 28, 2010, Revised October 20, 2010

- Violations involving sustained or multiple momentary outages caused by vegetation contacts.
- Violations involving lack of performance of critical assets or critical cyber assets.
- Repeat violations of the same or similar Reliability Standard(s) (although a Full NOP may be appropriate for a first occurrence of a Reliability Standard violation).
- Violations that had “Something to Highlight” such as a lack of a culture of compliance, refusal to cooperate, intent to conceal, factual evidence that suggested an issue at a parent or corporate level that would involve other registered entities and possibly other regions.

## **II. Abbreviated NOP**

Abbreviated NOPs would involve those violations that do not fall in either the Full NOP or Deficiency NOP categories.

This includes NOPs that contain one or more violations that created a minimal or moderate risk to the BPS, but did not rise to the level of a serious or substantial risk to the BPS. This category may include multiple violations or related violations of NERC Reliability Standards.

## **III. Deficiency NOP**

The Deficiency NOP is designed to address violations that pose a minimal risk to the BPS considering one or more of the factors below:

- The matter involves one or a small number of violations;
- Each violation was minor, administrative or documentation-related;
- The violation had a low or \$0 assessed penalty, although a higher penalty could be proposed with adequate explanation;
- The violation was the registered entity’s first instance of noncompliance with the NERC Reliability Standard at issue;
- The registered entity self-reported the violation;
- The registered entity has a completed and approved mitigation plan, certified its completion to the CEA and the Regional Entity has verified completion of the approved mitigation plan;
- The registered entity was cooperative;
- There was no evidence of concealment or intent to conceal the violation; and/or
- The registered entity has a culture of compliance that meets the criteria in applicable NERC rules.

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April 28, 2010, Revised October 20, 2010

If there are other situations that arise where the Regional Entity determines the violation should qualify for a Deficiency NOP, NERC and the Regional Entity should discuss the specific facts and circumstances prior to the drafting of the NOP.

A Deficiency NOP can be presented in one of two formats. First the Regional Entity and the registered entity may settle the violation by signing the streamlined Waiver agreement (see Attachment 1), and the Deficiency NOP would be based on that Waiver along with the Disposition Document. Alternatively, where there are process burdens in securing a signature for a Waiver agreement, the Regional Entity and the registered entity may proceed on the basis of a shortened notice of confirmed violation process.

### **NOP PROCESS AND EFFICIENCIES**

The specific efficiencies that these process improvements are intended to attain (to various degrees) are fourfold:

#### **A. Drafting Efficiency**

For all three types of NOPs, a certain amount of efficiency in drafting NOPs will be attained by utilizing a single Disposition Document. The Disposition Document is, in essence, a statement of the facts, findings and ultimate disposition of the violation. The creation of one document containing all such issues creates efficiencies for the CEA specifically because the facts do not have to be restated in each document throughout the process. Each document will now consist of a cover document containing a statement of purpose, outlining the process as applicable, and any necessary terms and conditions. This will save drafting time and will also save time in resolving any inconsistencies between documents.

#### **B. Scaled Scope**

To varying degrees, the nature of the violation will drive the nature and scope of the enforcement action, as well as the type of NOP to be used. For cases that pose a serious and substantial risk to the bulk power system, Full NOPs should be used, and the CEA enforcement staff will be expected to conduct the same due diligence that is used today for assessing possible violations and reviewing related standards and facts and circumstances for identifying other possible violations.

For cases that do not pose a serious or substantial risk to the bulk power system, Abbreviated NOPs will be used, and the CEA enforcement staff should focus on the specific requirement or sub-requirement at issue. The Disposition Document discussion for Abbreviated NOPs will continue to require due diligence with respect to the specific violation and an explanation of the nature, circumstances and duration of the violation, but after satisfying itself that the audit or

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investigation staff has thoroughly addressed the issue, the CEA enforcement staff need not undertake further auditing or investigation to complete the record or assure compliance beyond the violations presented through the appropriate discovery method. For example, the CEA enforcement staff would be expected to correct a Requirement number if the audit team identified the wrong Requirement number. The CEA enforcement staff also may dismiss a violation that the audit team identified where the record evidence does not support the violation. Nevertheless, where there is a limited nature violation of a single Requirement or sub-Requirement, the CEA enforcement staff would not be required to initiate its own review of an entity's compliance with all Requirements or sub-Requirements of the particular Reliability Standard at issue. That is, the Abbreviated NOP would state that it is addressing only the violation of a specified Requirement or sub-Requirement and is not evaluating an entity's compliance with the entirety of the Reliability Standard, unless otherwise implicated by the facts and circumstances of the violation. This scope should be clearly stated in the Disposition Document and the NOP, so the scope of confirmed compliance is understood by all readers.

For truly minor, administrative, or documentary violations, a Deficiency NOP may be used, and the CEA enforcement staff need only focus on the specific requirement or sub-requirement at issue. Again after satisfying itself that the audit or investigation staff has thoroughly addressed the issue, the CEA enforcement staff does not need to undertake additional discovery to confirm compliance with other Reliability Standards or Requirements. Given the minor, administrative or documentation-related nature of the violations addressed by a Deficiency NOP, it is expected that the explanations will be commensurately shorter.

### **C. Scaled Evidentiary Requirements**

The CEA enforcement staff will continue to be required to discuss the depth and risk impact during the time of noncompliance, but the amount of evidence and the level of detail required to make such description will vary based on the type of NOP at issue.<sup>2</sup> A Deficiency NOP should only require a one or two sentence summary of the violation, its impact and resolution. An Abbreviated NOP should be able to address a violation, its impact and resolution, in one or two paragraphs. A Full NOP will likely require a longer discussion of the violation, its impact and resolution.

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<sup>2</sup> See, e.g., *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008) (July 3 Order); *North American Electric Reliability Corporation*, "Further Guidance Order on Filing of Reliability Notices of Penalty," 129 FERC ¶ 61,069 (2009) (Further Guidance Order). See also *North American Electric Reliability Corp.*, "Order Extending the Time Period for Consideration," 127 FERC ¶ 61,198 (2009); *Delegations for Notices of Penalty*, 129 FERC ¶ 61,094 (2009) (Order No. 728); *North American Electric Reliability Corporation*, "Order on Omnibus Notice of Penalty Filing," 129 FERC ¶ 61,119 (2009).

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**D. Reduced Process**

In the event that a registered entity either admits or does not deny or contest a violation and is willing to resolve the violation through settlement, the registered entity will have an option to fast-track its case and bypass certain steps in the process by signing a Waiver. The template for the Waiver is attached (Attachment 1). In concept, the Waiver will be similar to the Disposition Letter that was used for the Omnibus violations.

For Abbreviated NOPs and Deficiency NOPs, if the registered entity either admits or does not deny or contest the violation, the registered entity may sign a Waiver that contains the assessed penalty, and proceed to the NOP development stage. In this situation, the Waiver becomes the Settlement Agreement, and a full Settlement Agreement is not required. The record will consist of the Source Document; a Mitigation Plan; a Certification Document, the Waiver (which could also serve as the Certification Document); and the Disposition Document, which also serves as the Verification document.

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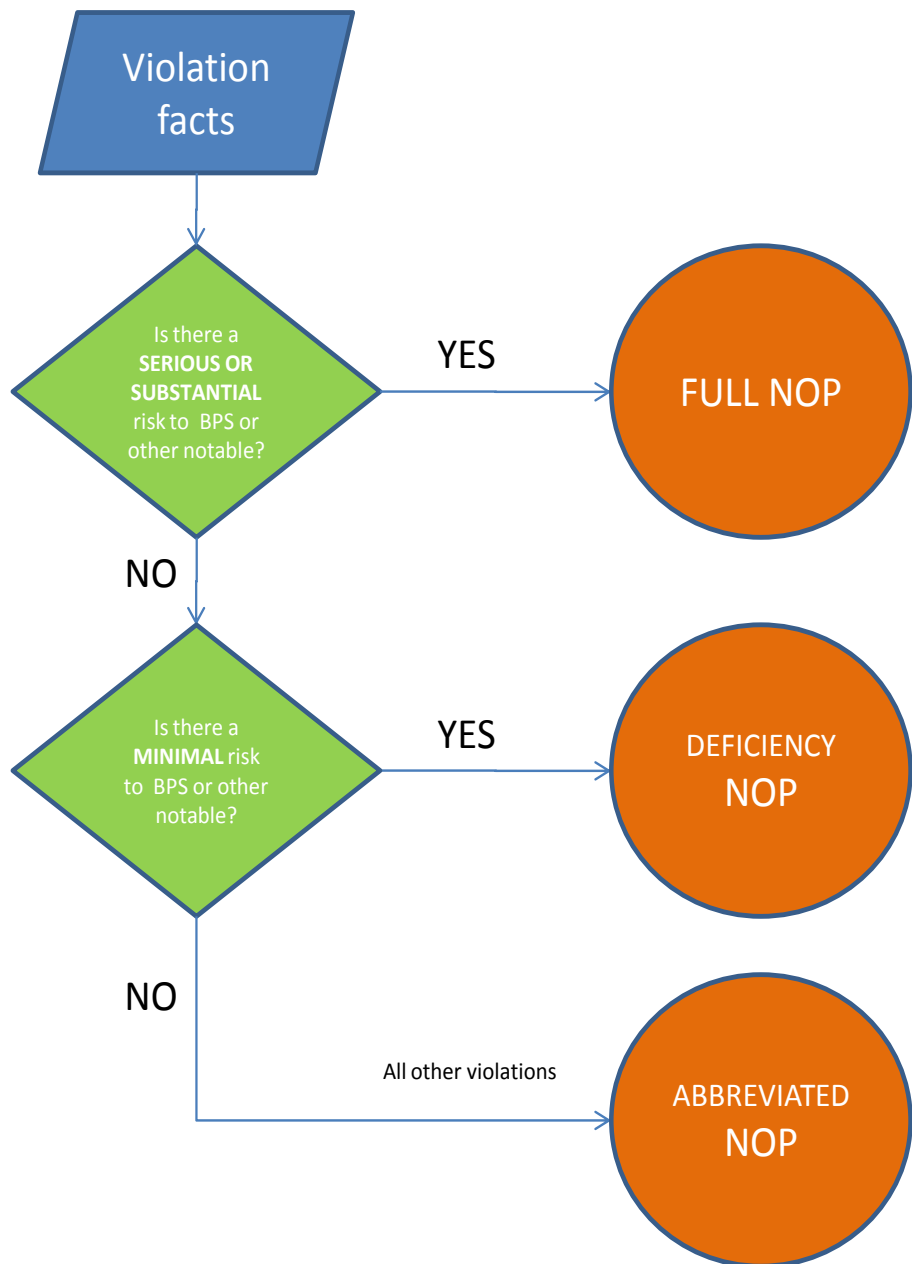
**PROCESS EFFICIENCIES SUMMARY\***

	Full NOP	Abbreviated NOP		Deficiency NOP	
		NOCV	SA	NOCV	SA
Violations have a Disposition Document	X	X	X	X	X
Disposition Document Discussion of Scope of Reliability Standard	Covers compliance with the Reliability Standard and all applicable Requirements	Covers compliance with specific Requirement or Sub-Requirement at issue	Covers compliance with specific Requirement or Sub-Requirement at issue	Covers compliance with specific Requirement or Sub-Requirement at issue	Covers compliance with specific Requirement or Sub-Requirement at issue
Disposition Document Discussion of Scope of Time (was there a gap in compliance)	Includes discussion on any gaps in compliance with the Reliability Standard and all applicable Requirements	Includes discussion on any gaps in compliance with specific Requirement or Sub-Requirement at issue	Includes discussion on any gaps in compliance with specific Requirement or Sub-Requirement at issue	Includes discussion on any gaps in compliance with specific Requirement or Sub-Requirement at issue	Includes discussion on any gaps in compliance with specific Requirement or Sub-Requirement at issue
Depth of Description of Violation and details	Description includes details sufficient to cover each violation and any questions that may arise (2 plus paragraphs)	Description includes details sufficient to cover each violation and any questions that may arise (1-2 paragraphs)	Description includes details sufficient to cover each violation and any questions that may arise (1-2 paragraphs)	Description covers a summary of each violation (1-2 sentences)	Description covers a summary of each violation (1-2 sentences)
Ability to Skip Steps in the Process if the Registered Entity Admits or Does Not Deny Violation and agrees to sign Waiver.	Requires a Settlement Agreement or NOCV and the violation is required to have a Mitigation Plan.	<p>Waiver may act as SA. With signed Waiver including assessed penalty, skip to NOP development.</p> <p>The violation is required to have a Mitigation Plan. The record will consist of a Source Document, an MP, Certification of MP Completion, a Waiver (which could also serve as the Certification Document) and a Disposition Document – which will also serve as the Verification Document.</p> <p>If the violation is contested or the assessed penalty is in dispute, all steps in process must be followed.</p>	<p>Waiver may act as SA. With signed Waiver including assessed penalty, skip to NOP development.</p> <p>The violation is required to have a Mitigation Plan. The record will consist of a Source Document, an MP, Certification of MP Completion, a Waiver (which could also serve as the Certification Document) and a Disposition Document – which will also serve as the Verification Document.</p> <p>If the violation is contested or the assessed penalty is in dispute, all steps in process must be followed.</p>	<p>Waiver may act as SA. With signed Waiver including assessed penalty, skip to NOP development.</p> <p>The violation is required to have a Mitigation Plan. The record will consist of a Source Document, an MP, Certification of MP Completion, a Waiver (which could also serve as the Certification Document) and a Disposition Document – which will also serve as the Verification Document.</p> <p>If the violation is contested or the assessed penalty is in dispute, all steps in process must be followed.</p>	<p>Waiver may act as SA. With signed Waiver including assessed penalty, skip to NOP development.</p> <p>The violation is required to have a Mitigation Plan. The record will consist of a Source Document, an MP, Certification of MP Completion, a Waiver (which could also serve as the Certification Document) and a Disposition Document – which will also serve as the Verification Document.</p> <p>If the violation is contested or the assessed penalty is in dispute, all steps in process must be followed.</p>

\*Acronyms are defined as:

SA – Settlement Agreement; NOCV – Notice of Confirmed Violation; MP – Mitigation Plan

**NOP PROCESS DECISION TREE**





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**POSSIBLE CHANGES TO THE RULES OF PROCEDURE**

The foregoing Notice of Penalty Process has been implemented to varying degrees within the current rules of procedure and compliance monitoring and enforcement program. With revisions to those rules anticipated in 2011, NERC staff proposes to continue to operate under the framework outlined above to gain experience with the templates and the process before developing formal rules changes.

At the present time, NERC staff envisions that any rules changes would simply codify more accurately the current practice with Full, Abbreviated and Deficiency NOPs, but there is a possibility that other rules changes could further the streamlining. For example, various parts of the rules of procedure contemplate that registered entities draft and submit mitigation plans for their violations (see ROP sections 403.10.4, 401.18, and 404.2; CMEP sections 1.1.11 and 6.1), but to gain documentary and process efficiencies, it may be possible with rules changes to fold the mitigation plan and related documents into a single Disposition Document. Such a consolidation might reduce the number of documents to be processed thereby eliminating the need to process multiple documents and reducing the potential for inconsistencies across multiple documents for any particular case. Other process efficiencies may be gained by revising the ROP or CMEP to allow compliance auditors to verify completion of mitigation plans while on audit or to allow more explicitly regional entity enforcement staff to approve and verify completion at the same time upon acceptance of a draft mitigation plan from a registered entity.

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**ATTACHMENT 1**  
**TEMPLATE FOR**  
**NOTICE OF PENALTY WAIVER AND SETTLEMENT AGREEMENT**

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Notice of Penalty Waiver and Settlement Agreement

[Registered Entity] and [Regional Entity] agree to the following:

1. [Registered Entity] [admits/neither admits nor denies/does not contest] the violations of NERC Reliability Standard [insert Standard(s) and Requirement(s)] and has agreed to the proposed penalty of [insert penalty may be \$0] to be assessed to [Registered Entity], in addition to mitigation actions undertaken to mitigate the instant alleged violations.
2. This Settlement Agreement is subject to approval or modification by the North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC or Commission). Payment terms, if applicable, will be set forth in the invoice to be submitted by Regional Entity after Commission approval of the instant Notice of Penalty.
3. [Registered Entity] has agreed to enter into this Settlement Agreement with [Regional Entity] to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. [Registered Entity] agrees that this Settlement Agreement is in the best interest of the parties and in the best interest of bulk-power system reliability.
4. [[Registered Entity] may make additional statements here if desired.]
5. The violations listed in the Disposition Document, attached hereto as Attachment A and incorporated herein will be considered [Confirmed Violations/Alleged Violations] for all purposes and may be used as aggravating factors in accordance with the NERC Sanction Guidelines for determining appropriate monetary penalties or sanctions for future violations.
6. [Regional Entity] has verified that the violations listed in Attachment A have been mitigated as of [end date] as described in Attachment A.
7. The expedited disposition agreed to herein represents a full and final disposition of the violations listed in Attachment A, subject to approval or modification by NERC and FERC. [Registered Entity] waives its right to further hearings and appeal, unless and only to the extent that [Registered Entity] contends that any NERC or Commission action on this Settlement Agreement contains one or more material modifications to this Settlement Agreement.

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8. In the event [Registered Entity] fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Settlement Agreement, [Regional Entity] will initiate enforcement, penalty, or sanction actions against [Registered Entity] to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Except as otherwise specified in this Settlement Agreement, [Registered Entity] shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
  
9. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Settlement Agreement on the entity's behalf.
  
10. The undersigned representative of each party affirms that he or she has read the Settlement Agreement, that all of the matters set forth in the Settlement Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Settlement Agreement is entered into by such party in express reliance on those representations.

Accepted:

\_\_\_\_\_  
[Registered Entity]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Regional Entity]

\_\_\_\_\_  
Date

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**ATTACHMENT 2**  
**TEMPLATE FOR**  
**DISPOSITION DOCUMENT**

**DISPOSITION OF VIOLATION**<sup>3</sup>

Dated **DATE**

NERC TRACKING NO.      REGIONAL ENTITY TRACKING NO.      NOC#  
  
NOC-XX

REGISTERED ENTITY      NERC REGISTRY ID  
  
Entity Name (Entity Acronym)      NCRXXXXX

REGIONAL ENTITY  
  
Region Name (Region Acronym)

I.      **REGISTRATION INFORMATION**

ENTITY IS REGISTERED FOR THE FOLLOWING FUNCTIONS:

BA	DP	GO	GOP	IA	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP

\* VIOLATION APPLIES TO SHADED FUNCTIONS

DESCRIPTION OF THE REGISTERED ENTITY

<sup>3</sup> For purposes of this document and attachments hereto, each violation at issue is described as a “violation,” regardless of its procedural posture and whether it was a possible, alleged or confirmed violation.

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II. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)

PURPOSE OF THE RELIABILITY STANDARD AND TEXT OF RELIABILITY STANDARD AND REQUIREMENT(S)/SUB-REQUIREMENT(S)

The purpose statement of **STANDARD** provides: “ ”

**STANDARD AND REQ.** provides:

VIOLATION DESCRIPTION

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

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IS THERE A SETTLEMENT AGREEMENT YES  NO

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY) YES

ADMITS TO IT YES

DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS) YES

WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED ENTITY

ACCEPTS IT/ DOES NOT CONTEST IT YES

**III. DISCOVERY INFORMATION**

METHOD OF DISCOVERY

SELF-REPORT	<input type="checkbox"/>
SELF-CERTIFICATION	<input type="checkbox"/>
COMPLIANCE AUDIT	<input type="checkbox"/>
COMPLIANCE VIOLATION INVESTIGATION	<input type="checkbox"/>
SPOT CHECK	<input type="checkbox"/>
COMPLAINT	<input type="checkbox"/>
PERIODIC DATA SUBMITTAL	<input type="checkbox"/>
EXCEPTION REPORTING	<input type="checkbox"/>



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DURATION DATE(S)

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY

IS THE VIOLATION STILL OCCURRING

YES  NO

IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED YES  NO

PRE TO POST JUNE 18, 2007 VIOLATION YES  NO

**IV. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO.

DATE SUBMITTED TO REGIONAL ENTITY

DATE ACCEPTED BY REGIONAL ENTITY

DATE APPROVED BY NERC

DATE PROVIDED TO FERC

IDENTIFY AND EXPLAIN ALL PRIOR VERSIONS THAT WERE ACCEPTED OR REJECTED, IF APPLICABLE

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MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE

EXTENSIONS GRANTED

ACTUAL COMPLETION DATE

DATE OF CERTIFICATION LETTER

CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF

DATE OF VERIFICATION LETTER

VERIFIED COMPLETE BY REGIONAL ENTITY AS OF

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

LIST OF EVIDENCE REVIEWED BY REGIONAL ENTITY TO EVALUATE COMPLETION OF MITIGATION PLAN (FOR CASES IN WHICH MITIGATION IS NOT YET COMPLETED, LIST EVIDENCE REVIEWED FOR COMPLETED MILESTONES)

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V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **DOLLAR PENALTY** FOR **NUMBER OF VIOLATIONS INCLUDED IN THE NOCV/SA** VIOLATIONS OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

PRIOR VIOLATIONS OF ANY OF THE INSTANT RELIABILITY STANDARD(S) OR REQUIREMENT(S) THEREUNDER

YES  NO

LIST ANY CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

PRIOR VIOLATIONS OF OTHER RELIABILITY STANDARD(S) OR REQUIREMENTS THEREUNDER

YES  NO

LIST ANY PRIOR CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

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(2) THE DEGREE AND QUALITY OF COOPERATION BY THE REGISTERED ENTITY (IF THE RESPONSE TO FULL COOPERATION IS "NO," THE ABBREVIATED NOP FORM MAY NOT BE USED.)

FULL COOPERATION    YES        NO   

IF NO, EXPLAIN

(3) THE PRESENCE AND QUALITY OF THE REGISTERED ENTITY'S COMPLIANCE PROGRAM

IS THERE A DOCUMENTED COMPLIANCE PROGRAM

YES        NO   

EXPLAIN

EXPLAIN SENIOR MANAGEMENT'S ROLE AND INVOLVEMENT WITH RESPECT TO THE REGISTERED ENTITY'S COMPLIANCE PROGRAM, INCLUDING WHETHER SENIOR MANAGEMENT TAKES ACTIONS THAT SUPPORT THE COMPLIANCE PROGRAM, SUCH AS TRAINING, COMPLIANCE AS A FACTOR IN EMPLOYEE EVALUATIONS, OR OTHERWISE.

(4) ANY ATTEMPT BY THE REGISTERED ENTITY TO CONCEAL THE VIOLATION(S) OR INFORMATION NEEDED TO REVIEW, EVALUATE OR INVESTIGATE THE VIOLATION.

YES        NO

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IF YES, EXPLAIN

(5) ANY EVIDENCE THE VIOLATION(S) WERE INTENTIONAL (IF THE RESPONSE IS "YES," THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES  NO

IF YES, EXPLAIN

(6) ANY OTHER MITIGATING FACTORS FOR CONSIDERATION

YES  NO

IF YES, EXPLAIN

(7) ANY OTHER AGGRAVATING FACTORS FOR CONSIDERATION

YES  NO

IF YES, EXPLAIN

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(8) ANY OTHER EXTENUATING CIRCUMSTANCES

YES  NO

IF YES, EXPLAIN

EXHIBITS:

SOURCE DOCUMENT

MITIGATION PLAN

CERTIFICATION BY REGISTERED ENTITY

VERIFICATION BY REGISTERED ENTITY

OTHER RELEVANT INFORMATION:

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NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR SANCTION ISSUED

DATE: OR N/A

SETTLEMENT DISCUSSIONS COMMENCED

DATE: OR N/A

NOTICE OF CONFIRMED VIOLATION ISSUED

DATE: OR N/A

SUPPLEMENTAL RECORD INFORMATION

DATE(S) OR N/A

REGISTERED ENTITY RESPONSE CONTESTED

FINDINGS  PENALTY  BOTH  NO CONTEST

HEARING REQUESTED

YES  NO

DATE

OUTCOME

APPEAL REQUESTED

## **Caseload Management Activities [DRAFT October 20, 2010]**

This paper was prepared by NERC staff to set out various activities that are currently underway or are recommended to address the growing number of Reliability Standards violations that the ERO Enterprise will need to process. After describing briefly the issue, this paper will first address activities to focus the identification of new violations to the most significant risks to bulk power system reliability, and then the paper will turn to efforts to manage the caseload in enforcement, including a new proposal for expeditious resolution of minor violations through an administrative citation process.

### **Issue Statement**

Currently, the active caseload at the ERO (NERC and Regional Entities) ranges in any given month from 2,500 to 2,900 active violations.<sup>1</sup> In October 2009, NERC submitted an Omnibus filing to resolve roughly a quarter of the active violations at the time (565 violations, plus an additional 60 violations in a subsequent Omnibus II filing made earlier this year). Nevertheless, the caseload has steadily increased in the past year to above pre-Omnibus levels. Violations of Reliability Standards CIP-002 through CIP-009 are a key contributor to the increased volume of violations. As of October 1, 2010 there were 1,033 active violations related to the CIP standards.

While efforts are underway at the NERC level to manage outgoing violations to the level of violations coming into the system and although Regional Entities have undertaken efforts to improve processes and increase efficiencies, resources at both the NERC and the regional level remain strapped. According to an analysis prepared by Southwest Power Pool, RE (SPP), their average production rate for 2010 to date is between .8 and 1.38 Completions/FTE/Month. When planned efficiency improvements and staffing come fully on-line, ReliabilityFirst expects to improve its present 20 to 25 violations per month filing rate to a 30 to 35 violations per month filing rate. Still, additional methods of disposition are needed to efficiently and effectively accommodate the volume of violations being uncovered.

Overall, there is a real need to ensure that the influx of new violations does not affect the ability of Regional Entities and NERC to properly focus on the most significant risks to reliability of the bulk power system and to manage the caseload efficiently.

### **Risk-Based Identification of Incoming Violations**

There are a number of initiatives currently in the ERO enterprise to ensure that new violations coming into the compliance enforcement system are appropriately focused on the more significant risks to the bulk power system.

To this end, NERC and the Regional Entities have worked collaboratively to structure the 2011 Compliance Monitoring and Enforcement Program (CMEP) Implementation Plan and Actively Monitored Standards List to incorporate more of a risk-based approach to compliance monitoring. Through this risk-based approach, the plan targets compliance monitoring to those standards requirements that most affect bulk power system reliability and the plan allows

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<sup>1</sup> By “active violations,” we mean possible, alleged or confirmed violations that are still awaiting final resolution and mitigation.



Regional Entities to tailor audits and other compliance monitoring activities to risks in individual cases. This should reduce the number of minor violations coming into the system through audits and spot checks, allowing for the shifting of focus and effort to more significant cases. However, the overall increase in number of violations may still impose more resource demands by an increasing number of more complex cases in the caseload, which will require more analysis and are ultimately more resource-intensive to process.

Another initiative underway is an increase in stakeholder education (compliance analysis papers, compliance application notices, lessons learned, compliance workshops and webinars, *etc.*). These activities serve the NERC vision of increasing transparency overall and in transforming and rebalancing the ERO into a learning institution. They will also eventually improve the caseload situation by highlighting examples of reliability excellence and providing training and information on what is required to 1) improve reliability of the bulk power system, 2) achieve compliance and 3) avoid common actions that lead to violations. Over time, this educational effort will give registered entities a better understanding of how to comply and how to demonstrate compliance. It should also provide registered entities an understanding of how risk is determined and mitigated and what is expected to demonstrate that risk was mitigated. Nevertheless, the general experience is that each publication typically prompts a temporary uptick in self-reports in the short term which would add to the caseload.

Other efforts to allow for better alignment of incoming violations and risks to bulk power system reliability are planned or may take time to fully realize:

**Auditor training** - In 2011, NERC and Regional Entities will be devoting significant time to auditor training. This should ensure that auditors are properly trained to understand the requirements of the standards to which they are auditing and to have the flexibility to request and accept alternate forms of evidence of compliance. In keeping with the risk-based implementation plan, this effort should also refocus auditors to identification of actual risks to bulk power system reliability and minimize emphasis on minor documentary issues.

**Reliability standards improvements** – The results-based standards initiative that commenced this year will over time contribute significantly to refocusing new violations on real risks to reliability. With improved standards, minor administrative or documentary violations should diminish, especially where there is no material impact on the bulk power system. Another improvement in the standards would be to reword them to minimize the zero-tolerance language or strict liability offenses that appear to occur under existing standards.<sup>2</sup>

**Registry improvements** – Various efforts to improve the registration process could also help in ensuring that incoming violations are focused on real reliability risks. NERC and

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<sup>2</sup> For example, under CIP-004-3 R4.2, a responsible entity must revoke an employee's access critical cyber assets within 24 hours of that employee's termination or within 7 days of when that employee ceases to need that access, but the standard does not provide for any measure of enforcement discretion based on risk to the bulk power system and would require the processing of a violation regardless of whether the case involved 1 or 1000 employees or whether the deadline was missed by an hour or by several months. Violations of various versions of CIP-004 accounted for almost a third (296 of 1033) of the active violations related to CIP standards.

the Regional Entities are in the process of developing a multi-regional registered entity process (MRRE), which will allow for better coordination of compliance monitoring and compliance enforcement activities. Specifically, for enforcement, the MRRE effort may facilitate the consolidation of multiple instances of noncompliance that may span multiple regions rather than requiring enforcement of each violation on a piecemeal basis. Beyond MRRE, other areas of improvement may include revisiting registration functions and criteria to minimize the registration of entities that do not and could not have an impact on the bulk power system.

### **Enforcement Processing Streamlining and Improvement**

Over the past year, NERC and the Regional Entities have worked collaboratively to increase throughput in compliance enforcement and achieve more efficient disposition of violations. Currently, each month, the NERC BOTCC is approving settlements and notices of confirmed violations to dispose of violations at a rate three times that of a year ago.

A key component of this success has been efforts to standardize and tier templates for notices of penalty (NOPs). As announced in the NERC BOTCC's open meeting on May 11, 2010, NERC staff has worked with Regional Entities to standardize record requirements through a disposition document form and to scale paperwork and process requirements for NOPs based on the risk impact of each violation. Although greater Regional Entity participation and input (particularly in identifying deficiency NOP cases) is needed to achieve expected efficiencies, NERC has already realized substantial efficiencies as reflected in a greater number of cases processed each month and a reduction in the amount of paperwork, rework, and errors in the compliance enforcement process.

Aside from that specific process change, additional efficiencies have been achieved through developing closer alignment and better working relationships between NERC enforcement staff and the enforcement staffs of regional entities. In implementing the NERC vision of a single ERO enterprise, NERC and Regional Entity enforcement staffs have through collaboration eliminated instances where the BOTCC would remand settlement agreements and notices of confirmed violations proposed by Regional Entities, and they have minimized the amount of rework that had occurred in the past.

Finally, another component of this process is ensuring that NERC and Regional Entities are appropriately staffed to handle the demands of an increasing caseload. With anticipated staff increases in 2011, NERC staff anticipates the ability to process NOPs for ~150 violations per month, assuming no substantial changes in policy or contested violations. This should be sufficient to match the average number of new active violations each month less any dismissals, but the current trend shows the number of active violations increasing. As noted above, however, at current staffing levels, resources at the regional level remain tight. For 2011, SPP RE has 8.9 FTEs budgeted for enforcement, a 3.92 increase above 2010 budgeted levels (1.67 FTE increase above 2010 actuals). ReliabilityFirst added 4 FTEs to their Enforcement Staff in 2010 and plans to add an additional FTE (for a total of 12.75) in Enforcement in 2011. For 2011, MRO has 5.82 FTEs budgeted for enforcement, a 1.05 increase above 2010 budgeted levels. Texas RE has 5.28 FTEs budgeted for enforcement in 2011, a 1.0 increase above 2010 budgeted levels.

## **Administrative Citation Process Proposal**

Despite efforts outlined above to refocus new violations coming into the caseload and to gain further efficiencies, more appears to be needed particularly at the Regional Entity level to stem the burden of the ever increasing number of new violations coming into the system. Given that FERC has not supported amnesties or safe harbors under the Reliability Standards, every violation identified in the field that is not dismissed as a non-violation must be processed through to an NOP filing at FERC. Even with the tiers of NOPs developed in the enforcement streamlining initiative, the need to fully process all violations regardless of their impact on the bulk power system has and will put a tremendous strain on NERC and Regional Entity compliance enforcement resources. In fact, for violations that do not impose any real risk to bulk power system reliability, the level of effort expended to investigate, verify and document the violation through to an NOP filing at FERC is an inefficient use of resources.

To address these concerns, NERC staff proposes the development of an administrative citation process, which as outlined below would be a vehicle for the Regional Entities to cite, record and process minor violations without preparing an individual NOP filing for FERC. This proposal is similar to various “fix-in-the-field” or “parking ticket” proposals suggested by various stakeholders. It would contain the following key features:

- **Scope:** The administrative citation process would address minor violations that meet these criteria: (1) the Regional Entity determines to be a minimal impact to reliability,<sup>3</sup> (2) the registered entity admits to the violation, and (3) the violation is not a repeat of a prior violation by that same entity.
- **Tracking:** For each violation processed by administrative citation, the Regional Entity would record and keep the following information: (1) Entity name and registration number, (2) registered function, (3) brief description of the violation, (4) Mitigation Plan or thorough description of what was done to resolve the concern and when mitigation was completed, and (5) a reliability impact statement reflecting the basis for

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<sup>3</sup> This determination would not be a purely mechanistic application of violation risk factors (VRFs) and violation severity levels (VSLs) pre-assigned to the Reliability Standards at issue. Rather it would be made based by the Regional Entity in the exercise of its enforcement discretion based on the specific facts of each individual case. As reflected with the experience in recent months with processing violations under the Disposition Document form – and in particular, the “Reliability Impact Statement – Potential and Actual,” Regional Entities have had some experience in identifying case-specific facts that provide a more accurate picture of the risk a violation may impose on bulk power system reliability than might actually be portrayed by looking just at the VRF and VSL for that violation.

Moreover, since the goal of this program would be to improve efficiency, Regional Entities would be called upon to exercise their discretion in a manner that improves efficiency. In other words, a Regional Entity would not be required to process violations that fall within the scope of this program when the Regional Entity determines in its discretion that the violation could be more efficiently processed through a notice of penalty filing – e.g., when the violation is part of a group of violations that are more efficiently handled through a single settlement agreement.

the Region Entity's determination that the violation had minimal impact to bulk power system reliability.<sup>4</sup>

- **Mitigation:** The purpose of this program is to shift the focus away from processing violations and to mitigation of risk to bulk power system reliability. Although the scope of the administrative citation process would be limited to violations that would be a minimal impact to the bulk power system reliability, it is important to ensure that any of the risks associated with any such violation are quickly mitigated. As noted above, information about this mitigation will be tracked as part of this process.
- **Compliance History:** Although as noted below FERC has provided a fairly strong endorsement to the "parking ticket" concept, FERC wants to make sure that the ERO accurately tracks violations as violations and ensures that a registered entity's compliance history is complete. As FERC noted:

As we stated in the Omnibus Notice of Penalty Order, the Commission expects an increasing level of compliance with the Reliability Standards as registered entities gain more experience with mandatory Reliability Standards. This expectation emphasizes an important consideration for penalty determinations: a registered entity's compliance history. We are concerned that an improperly designed "warning ticket" mechanism may allow a registered entity to receive a warning for practices that violate a Reliability Standard requirement, thereby resulting in an insufficient recognition of a registered entity's compliance history in a subsequent penalty matter.<sup>5</sup>

- **Reporting:** Administrative Citations would be reported to FERC quarterly in connection with the quarterly non-public reports on violation status and mitigation plans that NERC currently submits pursuant to Section 39.7(b)(5) of FERC's regulations.<sup>6</sup>

There appears to be ample authority in FERC's recent and prior orders on enforcement to pursue the program outlined above. In the Three-Year Assessment Order at P. 218, FERC added its endorsement to streamlining the NOP process as well as a "parking ticket" process similar to the administrative citation process outlined above:

One method that NERC and Regional Entities advocate to process enforcement matters more efficiently is to streamline procedures for handling less serious alleged violations. To this end, as we have stated previously, *the Commission encourages NERC and the Regional Entities to develop flexible approaches to*

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<sup>4</sup> Documentation of the required information may take the form of a simple waiver settlement agreement, much like is currently provided under a deficiency notice of penalty, or through an uncontested streamlined notice of confirmed violation.

<sup>5</sup> North American Electric Reliability Corporation Reliability Standards Development and NERC and Regional Entity Enforcement, 132 FERC ¶ 61,217 at P.219 (2010) (footnotes omitted) ("Three-Year Assessment Order").

<sup>6</sup> 18 C.F.R. § 39.7(b)(5) (2008) ("Electric Reliability Organization, and each Regional Entity through the ERO, shall file such periodic summary reports as the Commission shall from time to time direct on violations of Reliability Standards and summary analyses of such violations.")

*align the record and format of notices of penalty to the relative significance of violations, such as pro forma settlements and proposals for “parking ticket” or “speeding ticket” approaches that could minimize the administrative burden of performing each step in the Compliance Monitoring and Enforcement process for every violation.* For example, minor alleged violations subject to a “parking ticket” approach could be aggregated and reported to the Commission quarterly, rather than through individual notices of penalty. We agree with NERC that Regional Entities should seek to “bundle” multiple alleged violations into a single settlement when that can be done: in fact, we have declined to review further a number of notices of penalty that incorporate such settlements. We concur that, as Regional Entities urge, NERC and Regional Entities should consider development of “baseline” penalties for particular types of less serious violations. *We likewise encourage NERC and Regional Entities to address and submit for our consideration appropriate procedures and penalties for resolving purely documentation-related violations, i.e., instances in which a registered entity cannot provide data or documents showing its compliance with a particular requirement but can provide some other assurance of its performance or that it otherwise is fulfilling completely the reliability objective of the requirement. Documentation is not the goal in and of itself.* However, documentation is necessary to establish a reasonably auditable demonstration of compliance and may reinforce focus on attaining the performance required by a Reliability Standard.

(Emphasis added.) Similarly, FERC has long since recognized the enforcement discretion of NERC and the Regional Entities:

National Grid, among others, states that the Commission should allow enforcement discretion on an ongoing basis, for example, when the ERO or a Regional Entity interprets a Reliability Standard for the first time. *The Commission agrees that, separate from our specific directive that all concerned focus their resources on the most serious violations during an initial period, the ERO and Regional Entities retain enforcement discretion as would any enforcement entity.* Such discretion, in fact, already exists in the guidelines; as we stated in the ERO Certification Order, the Sanction Guidelines provide flexibility as to establishing the appropriate penalty within the range of applicable penalties.<sup>7</sup>

Finally, this approach is consistent with the practice of FERC’s own enforcement staff in declining to process fully violations of FERC’s own rules and regulations.

We also note that in many instances violations reported to the Commission are closed without sanctions. These usually involve inadvertent violations or violations that resulted from errors or misunderstandings of regulatory requirements, and which were not serious. Such resolutions normally are not

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<sup>7</sup> *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 639, 72 FR 16,416 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242 (2007) at P. 225 (emphasis added).

made public. During the first two years of enforcement activity since passage of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005), approximately 70 percent of staff investigations were terminated without any penalty, including many instances where a violation occurred. Staff Report on Enforcement, *supra* note 15, at 22.<sup>8</sup>

A number of actions are required to implement the administrative citation process outlined above. Although the proposal was developed in collaboration with the Regional Entities and builds upon proposals that have been made by individual stakeholders, NERC staff would like to solicit feedback from the stakeholders and the BOTCC both as to the details of the proposal and whether there is general support for moving forward with it. The BOTCC's open meeting on November 3, 2010 will provide a forum for presenting such feedback. In addition, to confirm FERC's support for this program, NERC staff would include further information about it in the informational filing directed by the Three-Year Assessment Order or in an earlier filing. Also, NERC and Regional Entity staffs will need to continue to collaborate to flesh out the details of the administrative citation process, including: what if any rules or procedure changes may be needed to formalize this process, what data systems changes will be needed in the CRATS, CITS or other compliance reporting systems to facilitate tracking and reporting of administrative citations,<sup>9</sup> whether to undertake such a program on a pilot basis pending completion of those rules and systems changes, and the development of any notification templates that may be needed.

### **CIP Violations**

Special consideration should be given to the portion of the caseload associated with active violations of Reliability Standards CIP-002 through CIP-009. As of October 1, 2010, those 1103 active CIP violations accounted for nearly 40% of the total caseload (of 2892 active violations). For the past several months, the number of new violations logged for the CIP standards has exceeded the number of new violations for the other standards, and currently seven of the top-10 most violated standards are CIP standards.

Although the foregoing discussion of caseload management activities would apply generally to any Reliability Standard violation, deliberate and comprehensive application of these activities is particularly needed in the context of the existing wave of CIP violations. Revisions to the CIP standards should be focused on eliminating zero-tolerance language and administrative requirements that have limited impact on bulk power system reliability. The proposed administrative citation process would go a long way to eliminating such low-risk violations from the caseload.

Beyond the activities outlined above, it is possible that a separate Omnibus-like filing for CIP violations might be needed to address the volume of CIP violations that have entered the caseload and that may not be addressed through the administrative citation process outlined above. Much like the original Omnibus filing, which was premised on early self-reports when

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<sup>8</sup> *Policy Statement on Compliance*, 125 FERC ¶ 61,058 (2008) P 22 n. 27 (citations in the original).

<sup>9</sup> Under the current systems, all violations are processed fully through to either dismissal or issuance of an NOP. Therefore, some systems changes will be needed to ensure that the necessary information for administrative citation violations is tracked and reported, and the system does not force those violations all the way through to an NOP.

there was limited experience enforcing the original Reliability Standards, a CIP-Omnibus would be premised on the fact that the CIP standards are relatively new to the industry, and many stakeholders may not understand the scope of their obligations under the standards. This was compounded by the fact that there has been aggressive monitoring that took place early on (i.e., spot checks of Table 1 entities), and that process identified a fair number of CIP violations.

While some of the same conditions that warranted the Omnibus filings also arise in the CIP context, a number of complicating factors militate against making a CIP-Omnibus filing. For example, the CIP standards have undergone and continue to undergoing substantial revision, which may be contributing to the increasing number of CIP violations. Until the CIP standards reach a steady state, it is unclear when the increasing numbers of CIP violations will stabilize to ensure that the caseload is resolved in a single CIP-Omnibus filing.

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

Item 6

## NERC Staff Update

to ensure  
the reliability of the  
bulk power system



## **Compliance Operations**

- i. CANs and feedback mechanisms
- ii. Revised regional audit/oversight program
- iii. 2011 annual implementation plan and AML
- iv. 706-B (October 15 filing update)
- v. Update on top 10 most violated standards and analysis papers

## **Compliance Enforcement**

- i. Update on trend on non-confirmed violations awaiting submittal of mitigation plans
- ii. Violations processing trends

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

Item 6.a

## Compliance Operations

to ensure  
the reliability of the  
bulk power system

# Compliance Operations

- CANs and feedback mechanisms
- Revised regional audit/oversight program
- 2011 Annual Implementation Plan and Actively Monitored List (AML)
- 706-B (October 15 filing update)
- Update on top 10 most violated standards and analysis papers

# CANs and Feedback Mechanisms

Compliance guidance versus interpretations

Comment period on drafts

Maintenance and clarifications

[cancomments@nerc.net](mailto:cancomments@nerc.net)

[michael.moon@nerc.net](mailto:michael.moon@nerc.net)

[valerie.agnew@nerc.net](mailto:valerie.agnew@nerc.net)

## Recently Posted (T)

- CAN for CIP-004 Revocation of Access
- CAN EOP-005 Simulations and Testing to Validate Restoration Procedures

## Updated and prioritized CAN list posted

- Prioritization planned quarterly, or as needed
- Three buckets and criteria used to prioritize
  - **Top Priority** (Real-Time Operations, Top 10 most violated; High Violation Risk Factors)
  - **Second Priority** (Substantive in work or significance, Medium Violation Risk Factors)
  - **Administrative**
- Posted September 21, 2010 at <http://www.nerc.com/page.php?cid=3|22|354>

# Regional Entity Audit Program

- 1<sup>st</sup> Round Agreed Upon Procedures (AUP)
  - Three year period
  - Process oriented
  - Significant maturation since inception
- 2nd Round Performance-Based
  - Five year period
  - Comparative, continuous, and rigorous

## Close out AUPs

- RFC, SERC, MRO, NPCC, SPP complete corrective action plans
- TRE, FRCC, WECC review all exceptions from first five and make corrective action
- Each Region will self certify to corrective action plan
- NERC staff will conduct spot checks of each region prior to signing of new regional Delegation Agreements



## Restructured Program

- Modularized, continuous, and rigorous
- Components
  - Staffing and resource review
  - Key Reliability Standards Spot Check
  - Registered Function Spot Check
  - Validation of Regional Entity Spot Check Implementation
  - Assessment of Compliance Investigation capability and results
  - Periodic Review of Metrics and Measures

## Next Steps

- Notification to Regions on completion of AUP action plans
- Close out AUP engagements with spot checks
- Informational Filing to FERC on restructured program

# CMEP Annual Plan and AML for 2011

## Development of 2011

- Annual CMEP Implementation Plan
- Actively Monitored List (AML)

## Objective

Use a risk base criteria/methodology to select those Reliability Standards that should be included in the Actively Monitored Reliability Standards list to be audited under the CMEP for 2011, except for those to be audited associated with CIP Reliability Standards.

## Criteria for Selection of Standards Audited

- FERC Mandated
- High Violation Risk Factor
- Violation Risk Index (VRI)
- NERC top 10 list of allegedly violated reliability standards
- Identified in past events and major reliability issues
- Input from Regional Entities

# CMEP Annual Plan and AML for 2011

## Number of Reliability Standards

Year	2007	2008	2009	2010	2011
Compliance Audit	39	60	49	56	38
Self-Certification	39	60	52	60	51
Periodic Data Submittals	--	--	12	13	14
Exception Reporting	--	--	14	19	13
Spot Check	0	0	13	19	14
Subject to Compliance Violation Investigation	--	--	94	95	102
Subject to Self-Reporting	--	--	94	95	102
Subject to Complaint	--	--	94	95	102

# CMEP Annual Plan and AML for 2011

Posted October 5<sup>th</sup>.

2011 Implementation Plan:

[http://www.nerc.com/files/2011\\_ERO\\_CMEP\\_Implementation\\_Plan\\_20101005.pdf](http://www.nerc.com/files/2011_ERO_CMEP_Implementation_Plan_20101005.pdf)

2011 Actively Monitored List:

<http://www.nerc.com/commondocs.php?cd=3>

Risk and performance-based audit criteria include six components for scope identification:

- North American-wide NERC Reliability Standards most violated. Encompasses the core standards to be monitored across the industry
- Regional Entity-specific most violated NERC Reliability Standards
- Regional Entity Reliability Standards most violated, as applicable
- Registered Entity specific issues, including but not limited to operational issues, operational footprint changes, corporate restructuring, other trends, *etc.*
- Random determination
- Compliance culture

# 706-B (October 15 Compliance Filing)

- Initial bright line workshops and surveys complete
- All Nuclear Power Plants have formally indicated all of the balance of plant and systems, structures and components are important to safety to both NERC and NRC
- NRC, FERC, and NERC have conducted meetings to discuss the jurisdictional issues



# Compliance Analysis Report Status

## Reports completed to date:

- PRC-005 Transmission and Generation Protection System Maintenance and Testing
- CIP-004 Cyber Security — Personnel & Training
- FAC-008 Facility Ratings Methodology
- FAC-009 Establish and Communicate Facility Ratings
- CIP-001 Sabotage Reporting
- VAR-002 Generator Operation for Maintaining Network Voltage Schedules
- PER-002 Operating Personnel Training

<http://www.nerc.com/page.php?cid=3|329>

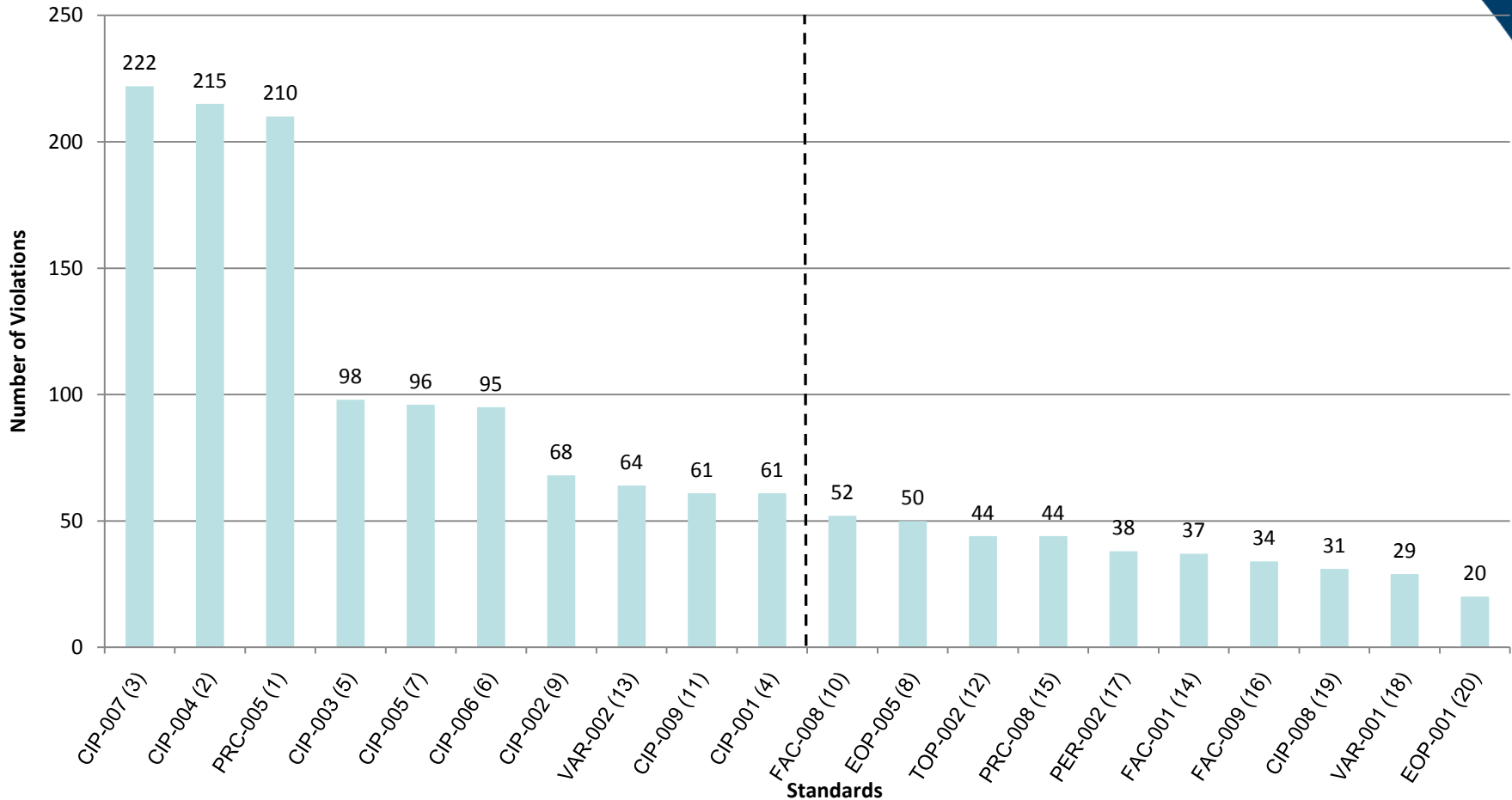
## Priority for reports based on a review of:

- Top 20 All Time Violated Standards
- Top 20 Enforceable Standards - Rolling 12 Months period statistics

1	CIP-006 Cyber Security — Physical Security of Critical Cyber Assets CIP-007 Cyber Security — Systems Security Management
2	EOP-005 System Restoration from Blackstart Resources
3	CIP-003 Cyber Security — Security Management Controls
4	TOP-002 Normal Operations Planning

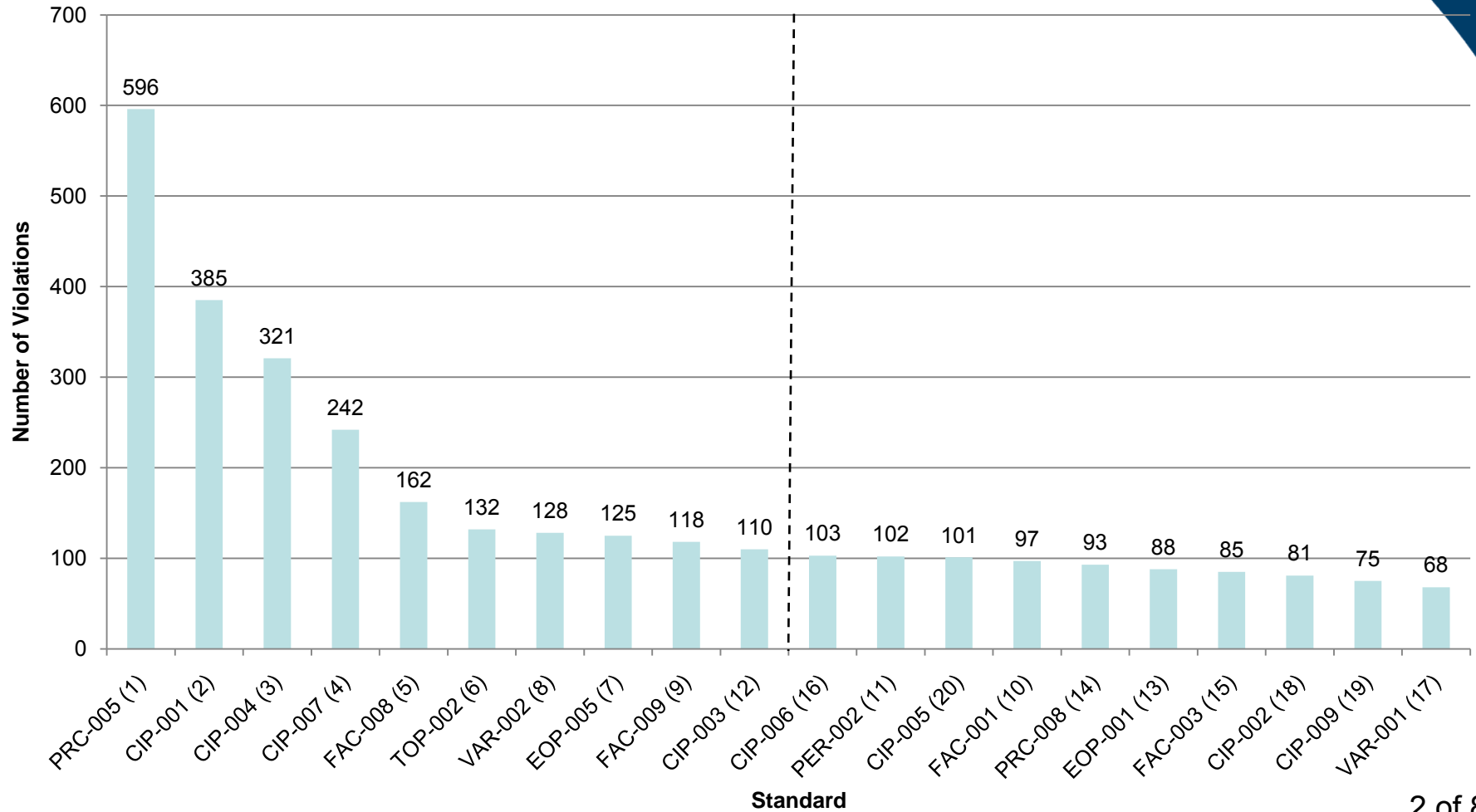
# Top 20 FERC Enforceable Standards - Rolling 12 Months

Submit dates: 10/1/2009 thru 9/30/2010



Analysis Complete: PRC-005, CIP-004, FAC-008, FAC-009, CIP-001, VAR-

# Top 20 All Time Violated Standards Active + Closed Violations thru 9/30/2010



Analysis Complete: PRC-005, CIP-004, FAC-008, FAC-009, CIP-001, VAR-

NERC focuses on developing the following metrics for PER-002:

1. The requirement numbers and sub-requirement numbers give a high-level view of the violations and their severity.
2. Violations by region show how the violations are distributed throughout the ERO regions.
3. The dispersion of violations across North America by region is an interesting fact, but relating it to the proportion of Registered Entities whose functions directly relate to the applicable standard is a more intriguing statistic.
4. The violations separated by functional registration of the Registered Entity.
5. The method of discovery provides insight as to how the violations are found or reported.
6. The date of violation will aid in seeing if there are particular months, quarters, or years of interest to see if there are noticeable trends.
7. Key reasons for noncompliance cited by the Regional Entities, classified by a bucket structure that includes trained personnel deficiencies, program deficiencies, and emergency training deficiencies.

# Compliance Analysis PER-002

## **PER-002 Requirements**

R1 – Each TOP and BA shall be staffed with adequately trained operating personnel

## **Violations**

17

## **Percentage**

18.7%

R2 – Each TOP and BA shall have a training program for all operating personnel in:

11

12.1%

R3 – For personnel identified in R2, the TOP and BA shall provide a training program meeting the following:

31

34.0%

R3.1 – A set of training program objectives must be defined based on NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements

9

9.9%

# Compliance Analysis PER-002

## PER-002 Requirements

R3.4 – Training staff must be identified, and the staff must be competent in both knowledge of system operators and instructional capabilities

## Violations

2

## Percentage

2.2%

R4 – For personnel identified in R2, each TOP and BA shall provide its operating personnel at least five days per year of training, drills, and simulations of emergencies, in addition to the other training required

21

23.1%

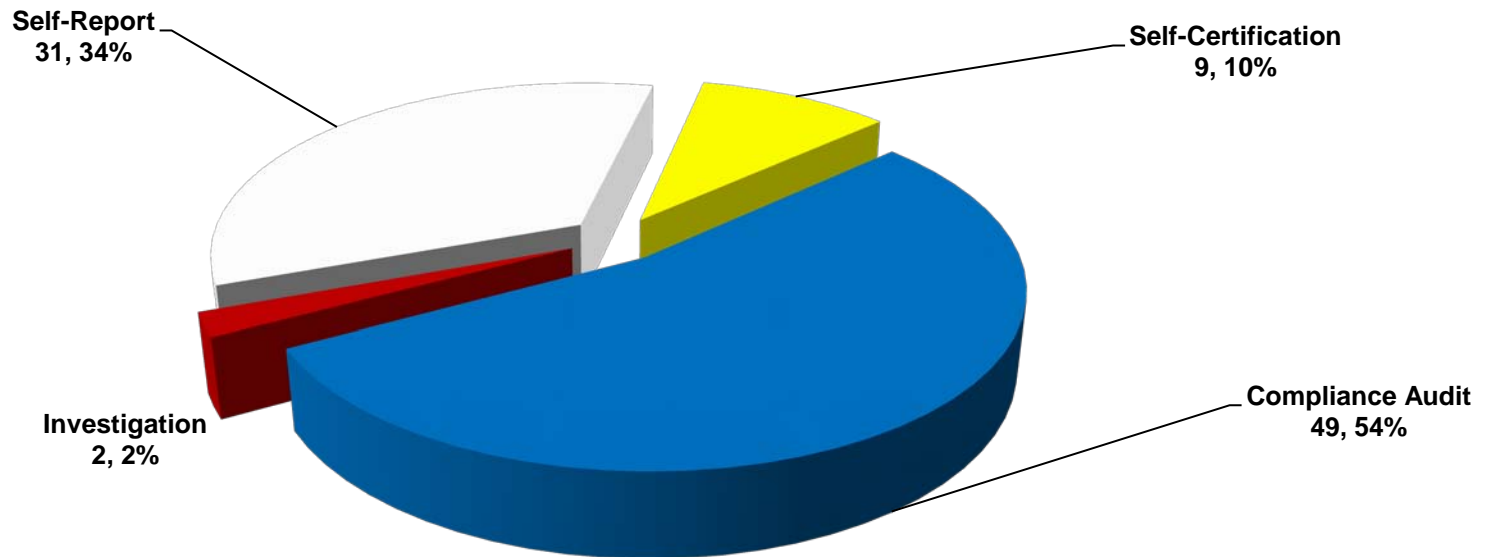
## Totals

91

100%

# PER-002 Violations Method of Discovery

## PER-002 Violations by Method of Discovery



# Compliance Analysis PER-002

## Recommendations

1. ...effectively identify objectives based on standards, procedures, and applicable regulatory requirements.
2. ...clearly and accurately present the core knowledge and skills required for reliable operations in their training plans.
3. Proper documentation needs to be employed by entities. Organization of records prior to an audit should be stressed for inclusion in the execution of the program.
4. ...it should be clarified that the essential goal of training programs is not simply providing system operators with a set of skills or competencies, but training them how to conduct their daily work; to gain critical experience and then exercise judgment appropriately.



# Questions



# NERC

NORTH AMERICAN ELECTRIC  
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Item 6.b

## Compliance Enforcement

to ensure  
the reliability of the  
bulk power system

# NERC

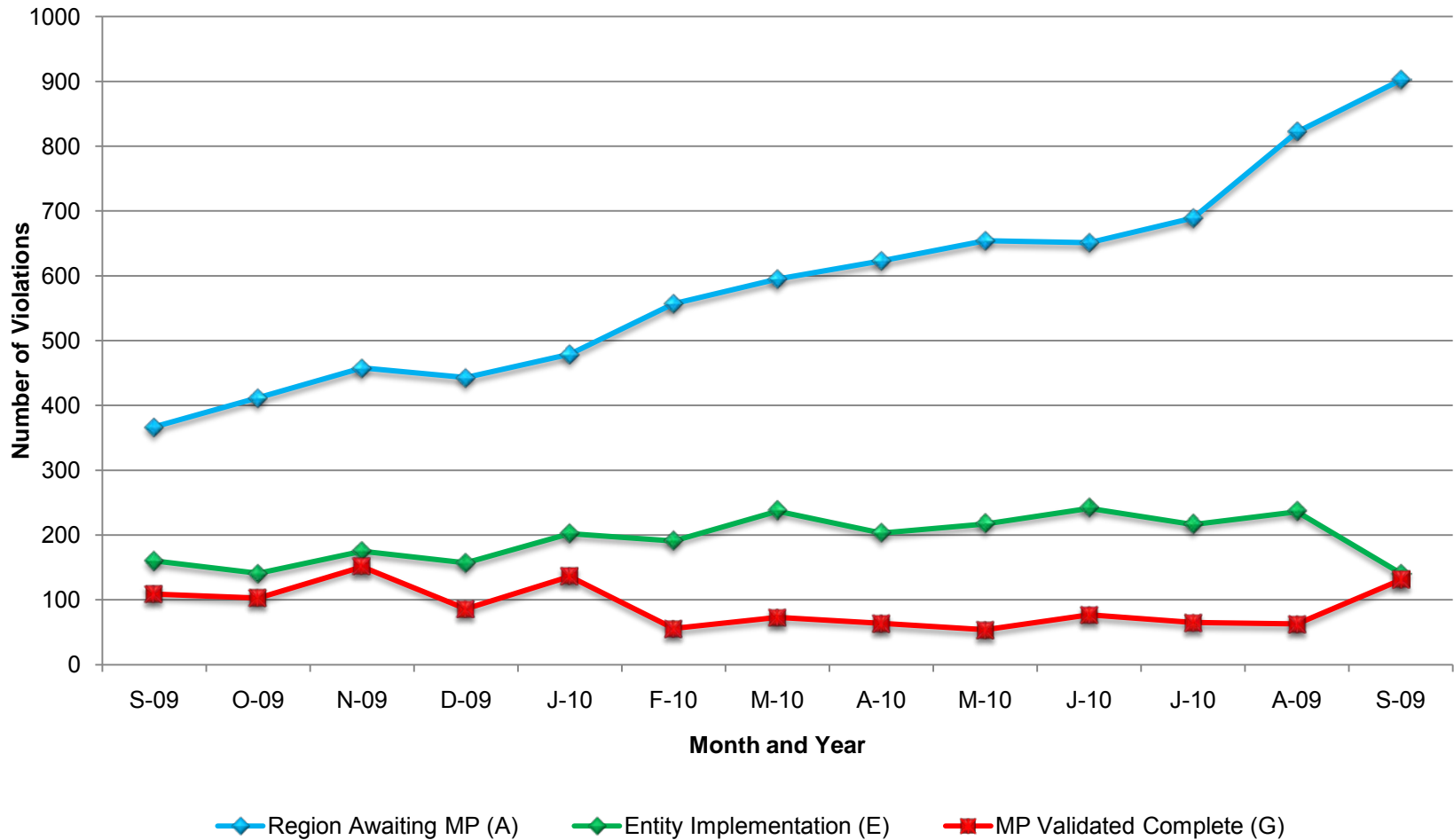
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Item 6.b.i

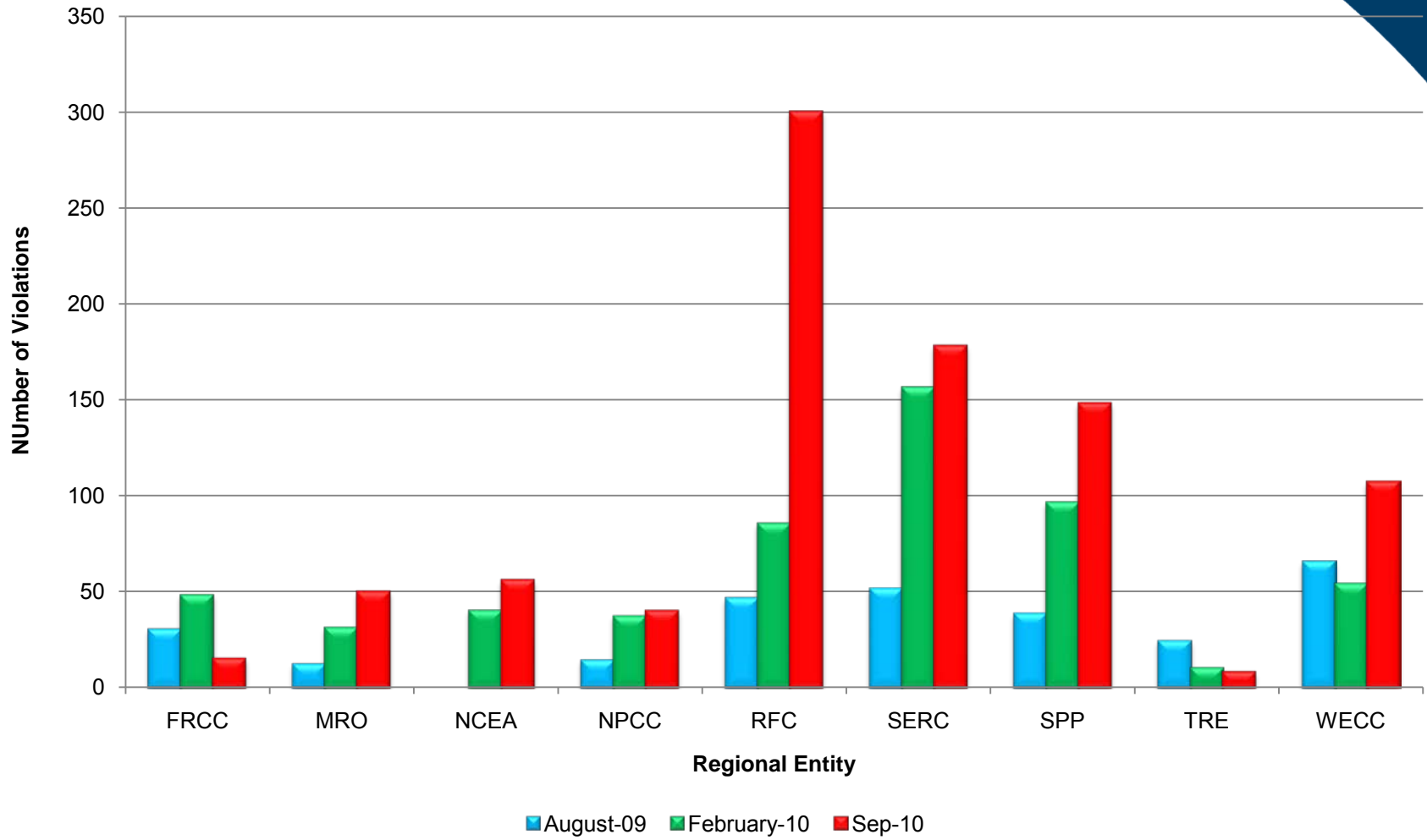
## Non-confirmed Violations Awaiting Mitigation Plans - Update 6.b.i

to ensure  
the reliability of the  
bulk power system

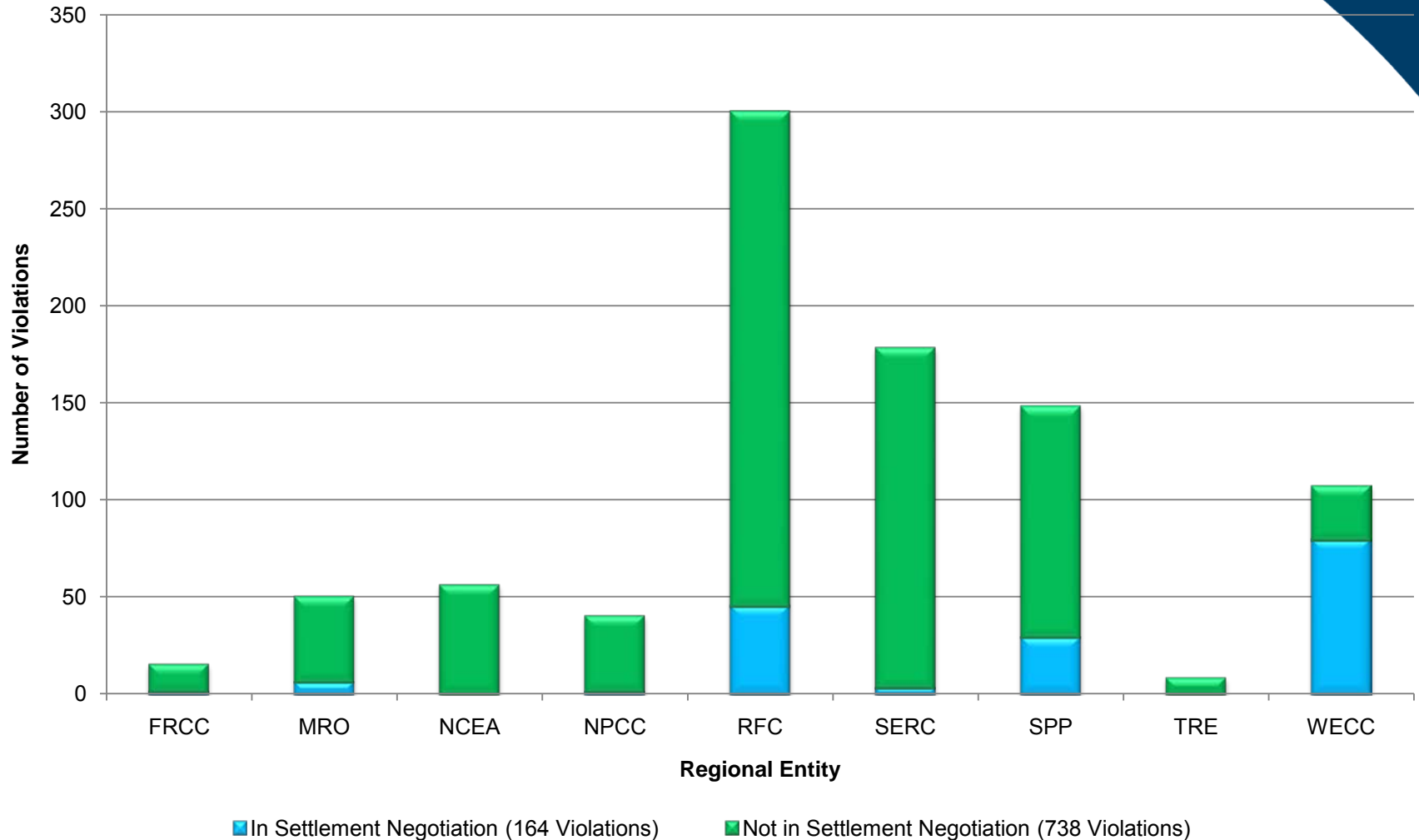
# Mitigation Status



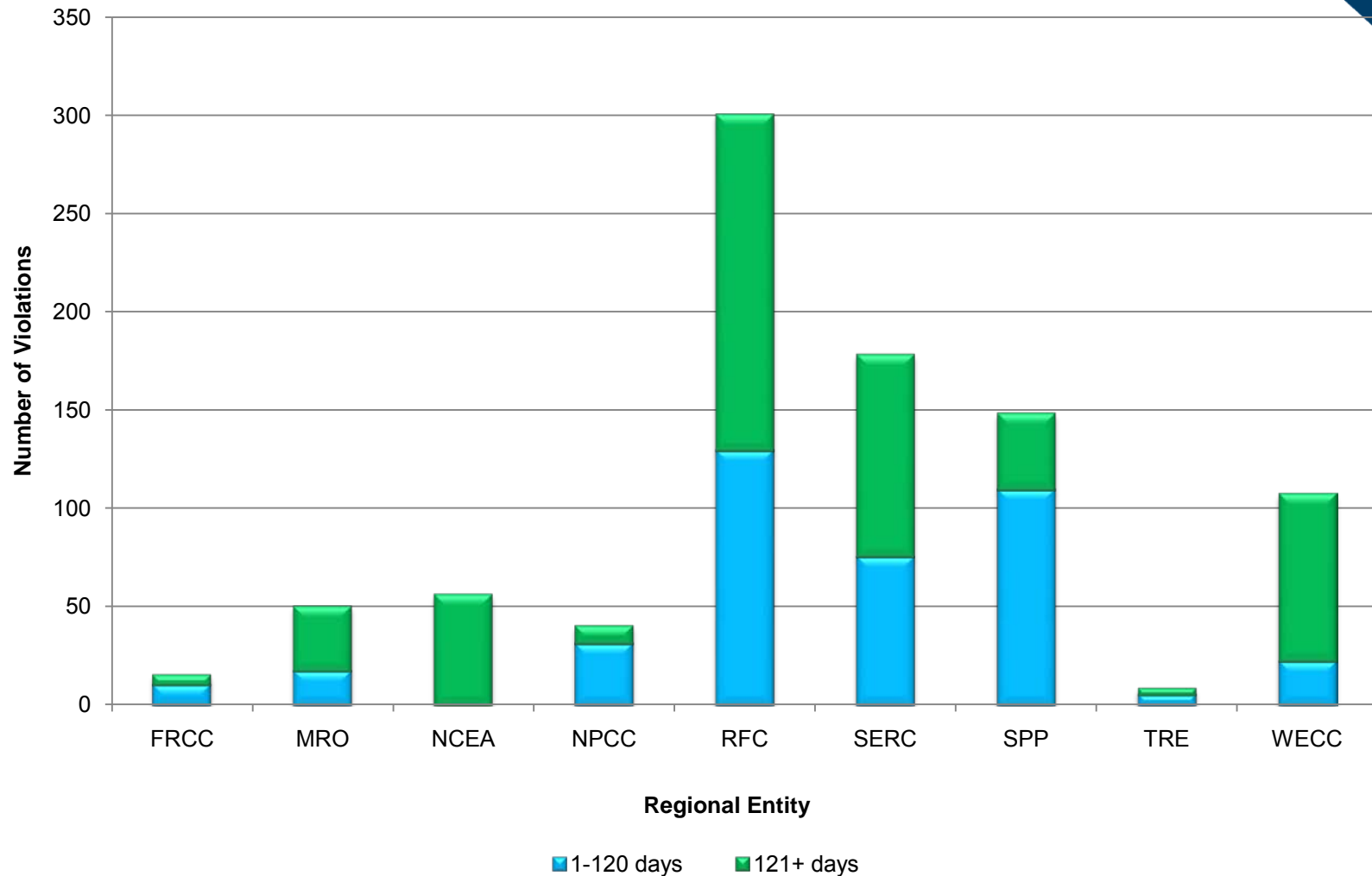
# Non-Confirmed Violations without Submitted MP — by Regional Entity



# Non-Confirmed Violations without Submitted MP — by Settlement Status

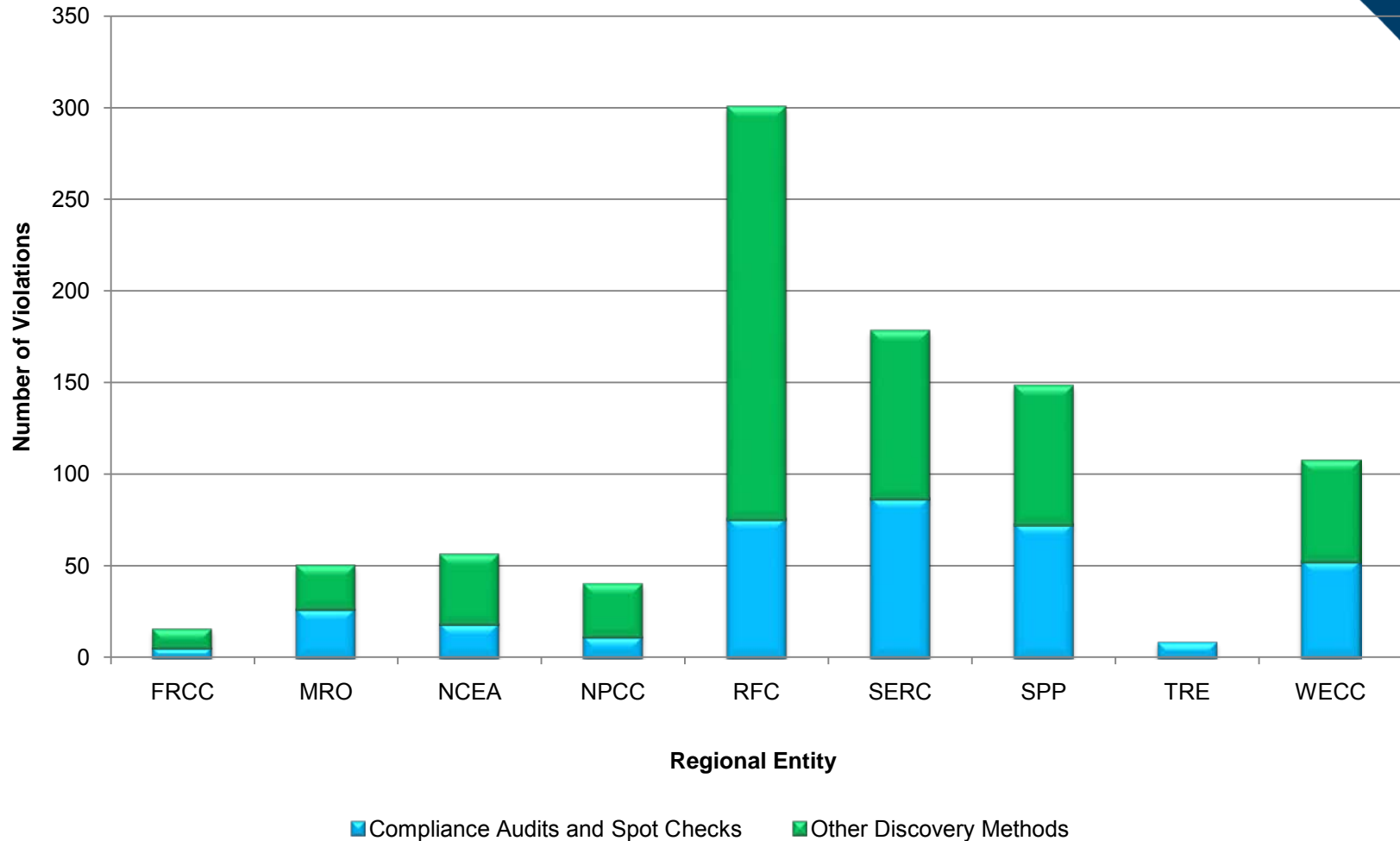


# Age of Non-Confirmed Violations without Submitted MP



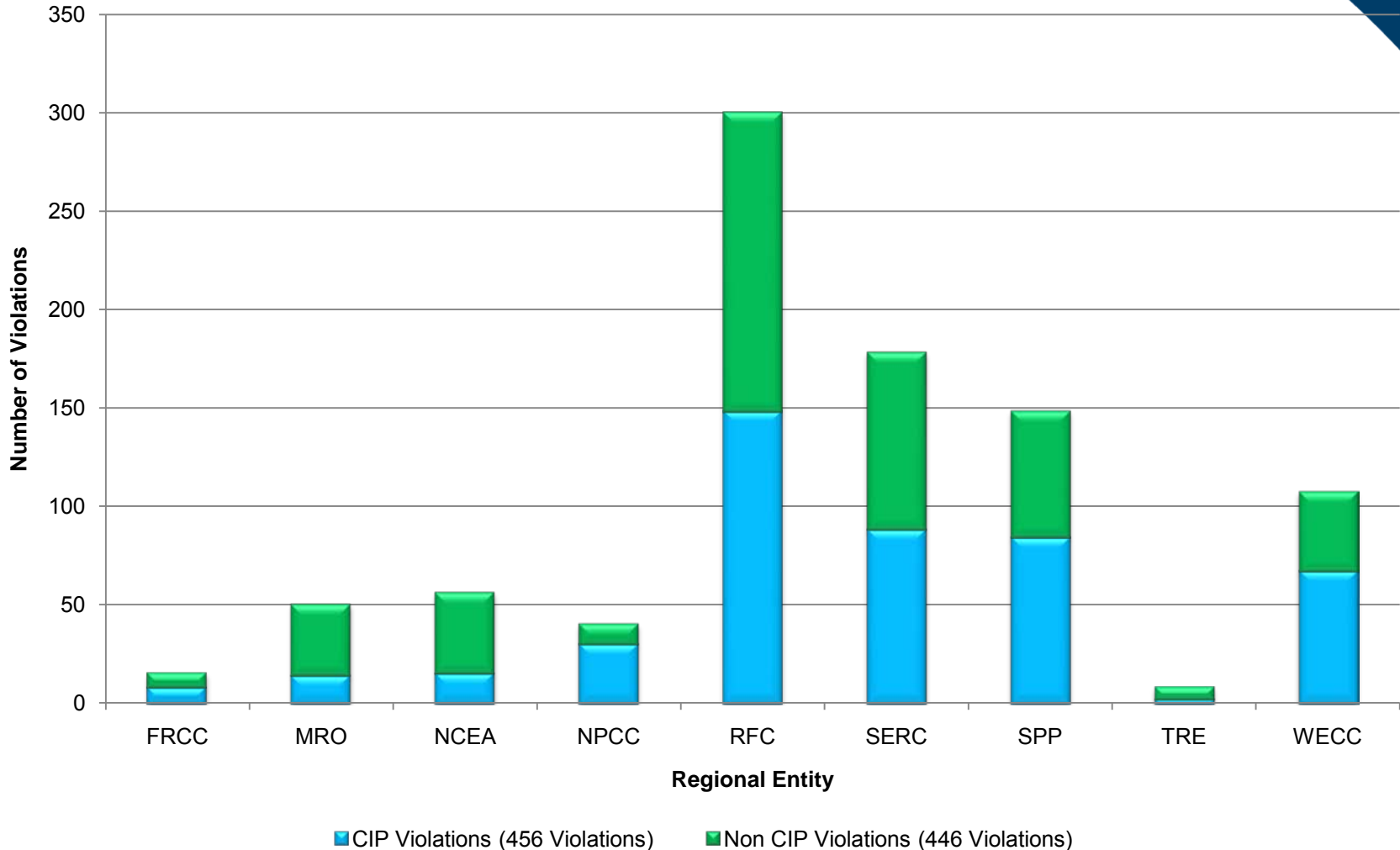
Data through September 30, 2010

# Non-Confirmed Violations without Submitted MP — by Discovery Method

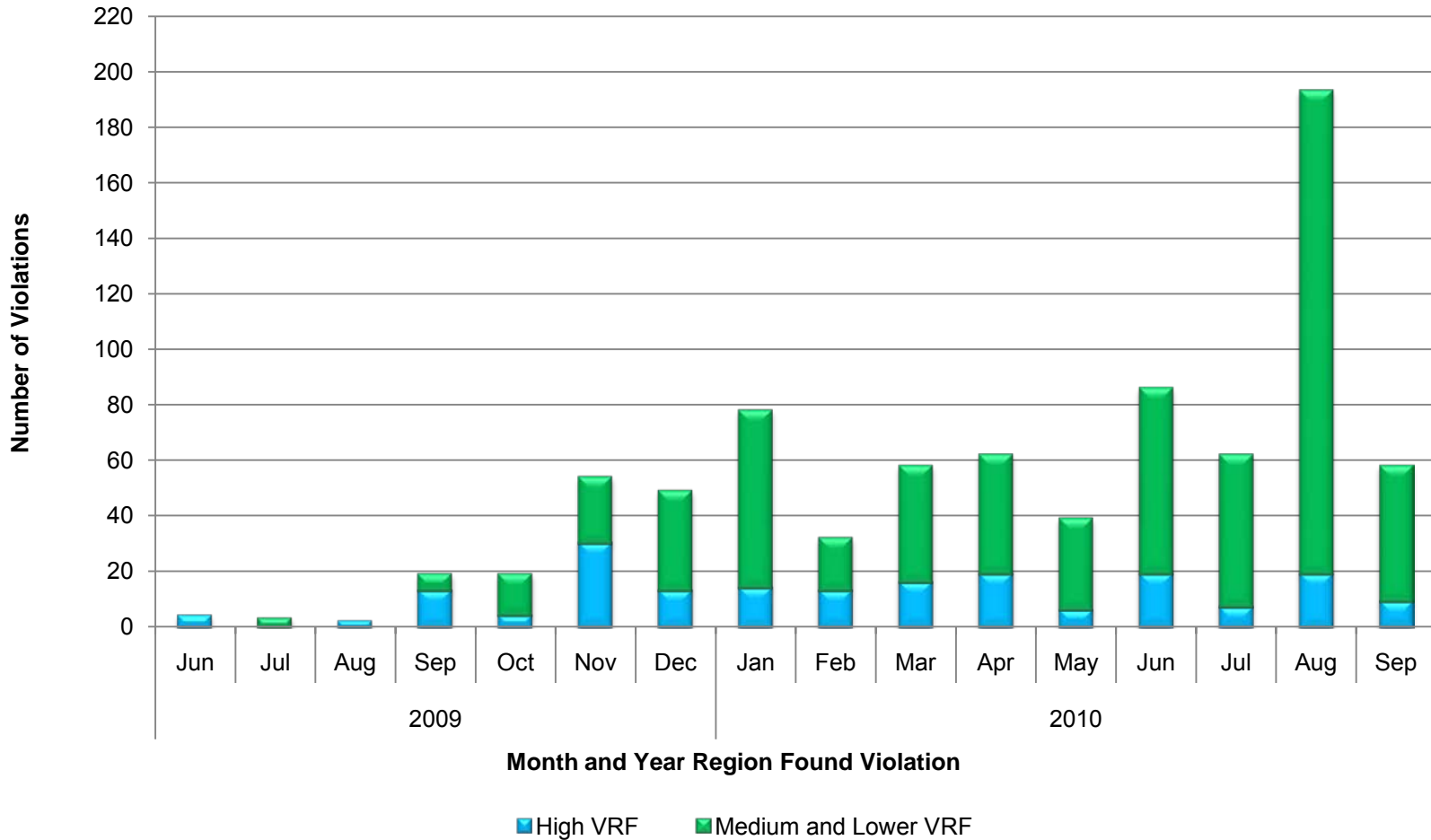




# Non-Confirmed Violations without Submitted MP — by CIP / Non-CIP

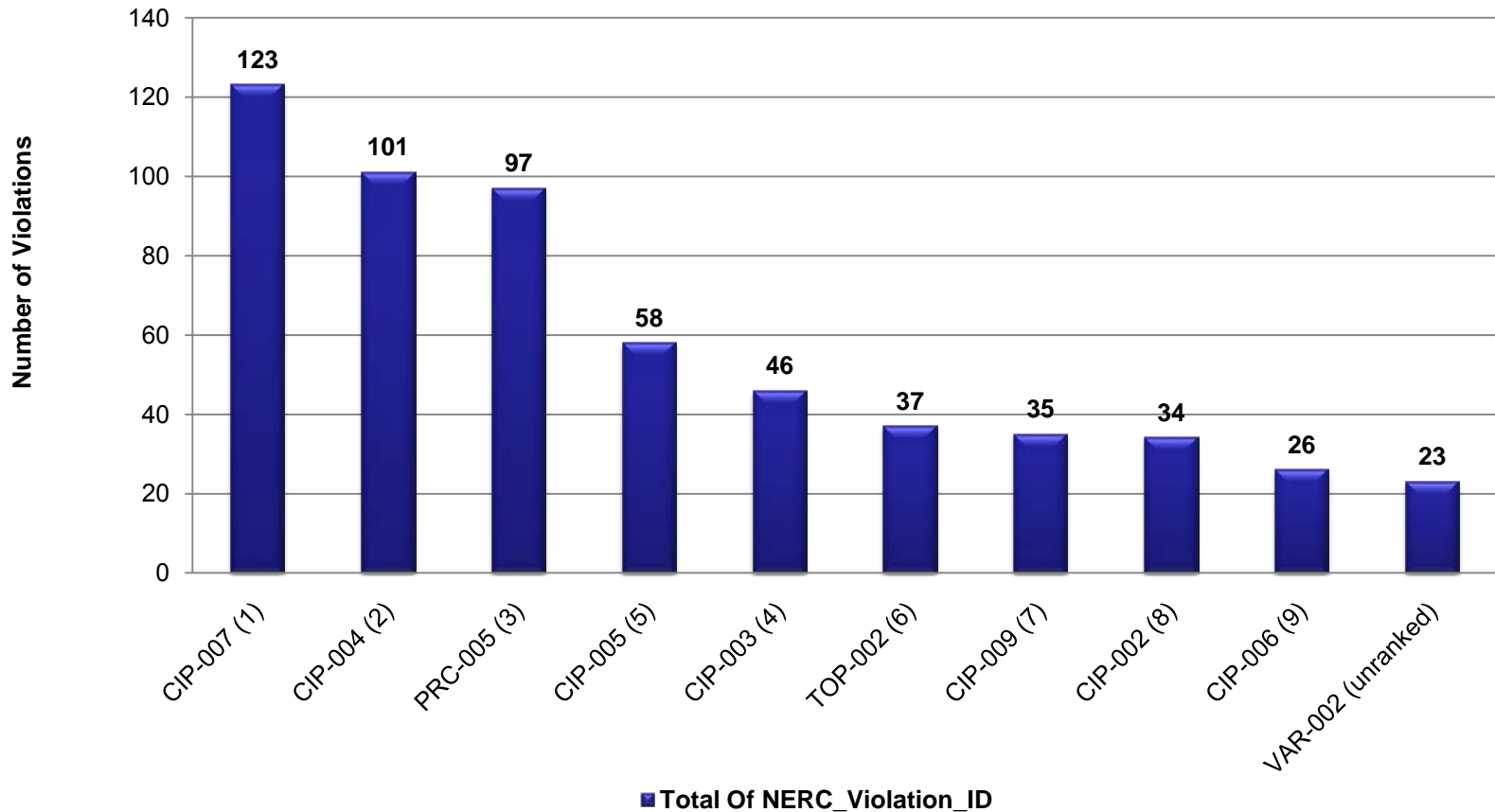


# Non-Confirmed Violations without Submitted MP — by VRF and Date of Discovery



# Top Ten Standards without Submitted Mitigation Plans

## Top 10 Standards with Missing Mitigation Plans



# Violations without Mitigation Plans

	July 2010	August 2010	September 2010
Increase over Previous Month	+38	+133	+80
New Violations Submitted During the Month	128	231	196
Received Mitigation Plans for Previous Violations.	90	98	116

# NAVAPS Analysis – With and Without Mitigation Plans

Active Violations	Mitigation Plans Received		No Mitigation Plan	Total
	Prior to NAVAPS	After NAVAPS		
With NAVAPS	966	316	88	1370
Without NAVAPS	708		814	1522
Total	1990		902	2892

# Entities with the most Violations without Mitigation Plans

- At the beginning of the 3<sup>rd</sup> Quarter
  - 20 entities account for 57% or 377 violations awaiting MPs
- By the end of the 3<sup>rd</sup> Quarter
  - The same 20 entities submitted 117 MPs for the 377 violations; or approximately 1/3.

# Overall Trends

- The number of new CIP violations received each month continues to rise dramatically over the number of new non-CIP violations
  - In September 2010, 182 CIP were received compared to 91 Non-CIP. In August 2010 103 CIP were received compared to 139 Non-CIP
  - 6 month violation receipt average (April 1, 2010 through September, 2010) = 183 violations/month
  - 273 violations received in September 2010 compared to 242 violations received in August 2010

# NERC

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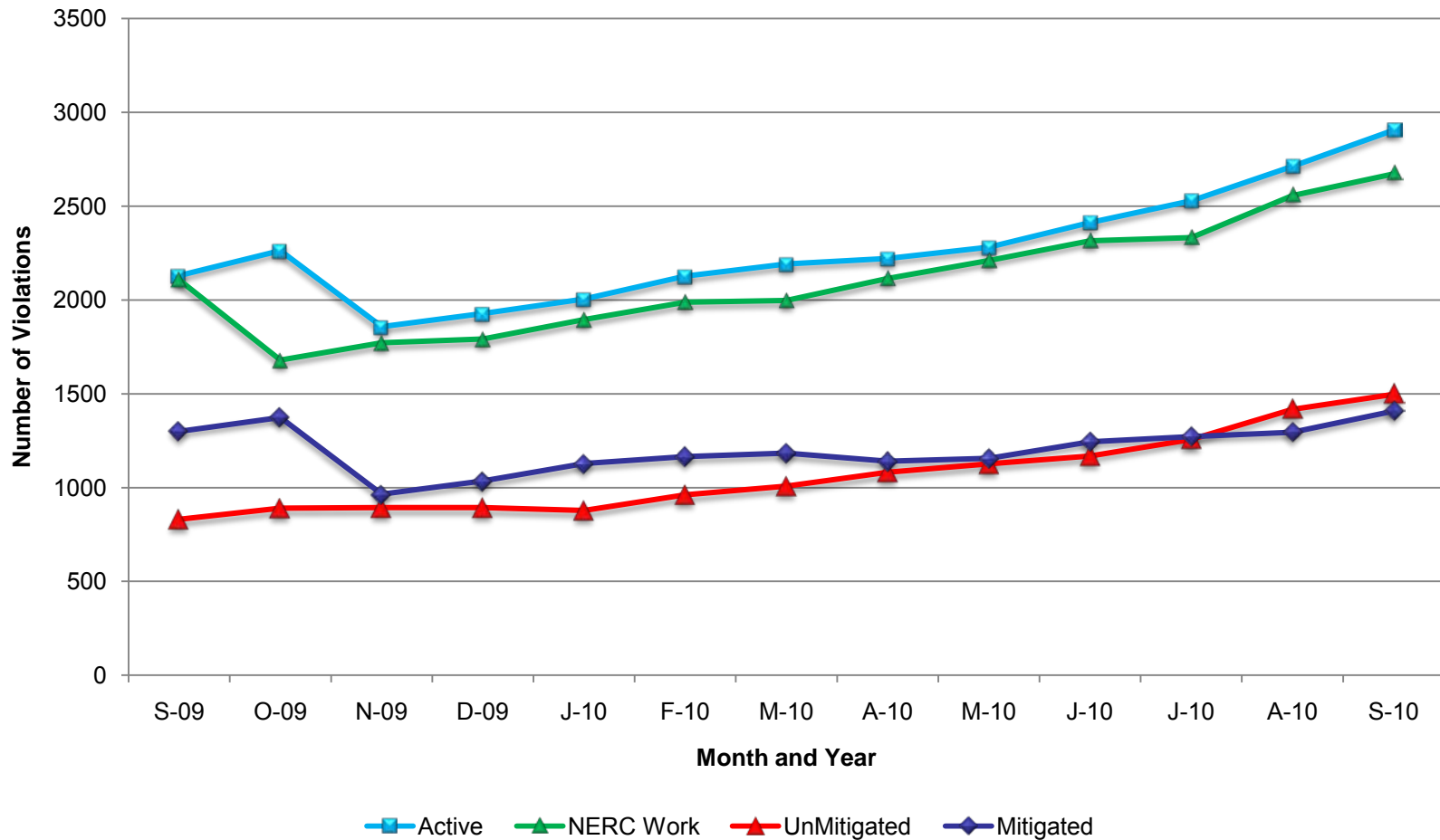
Item 6.b.ii

## Violations Processing Trends 6.b.ii

to ensure  
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bulk power system

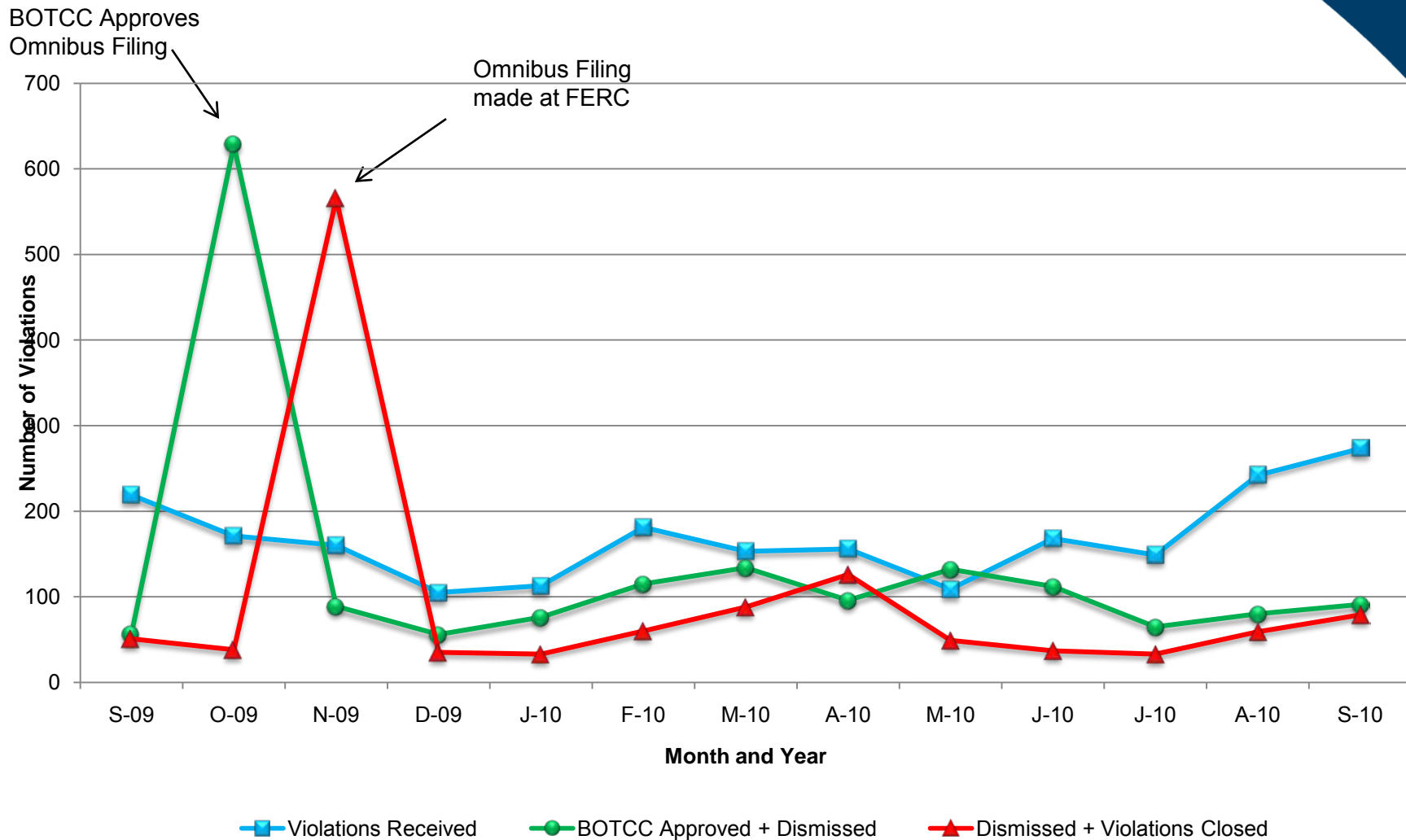


# Compliance Processing Statistics

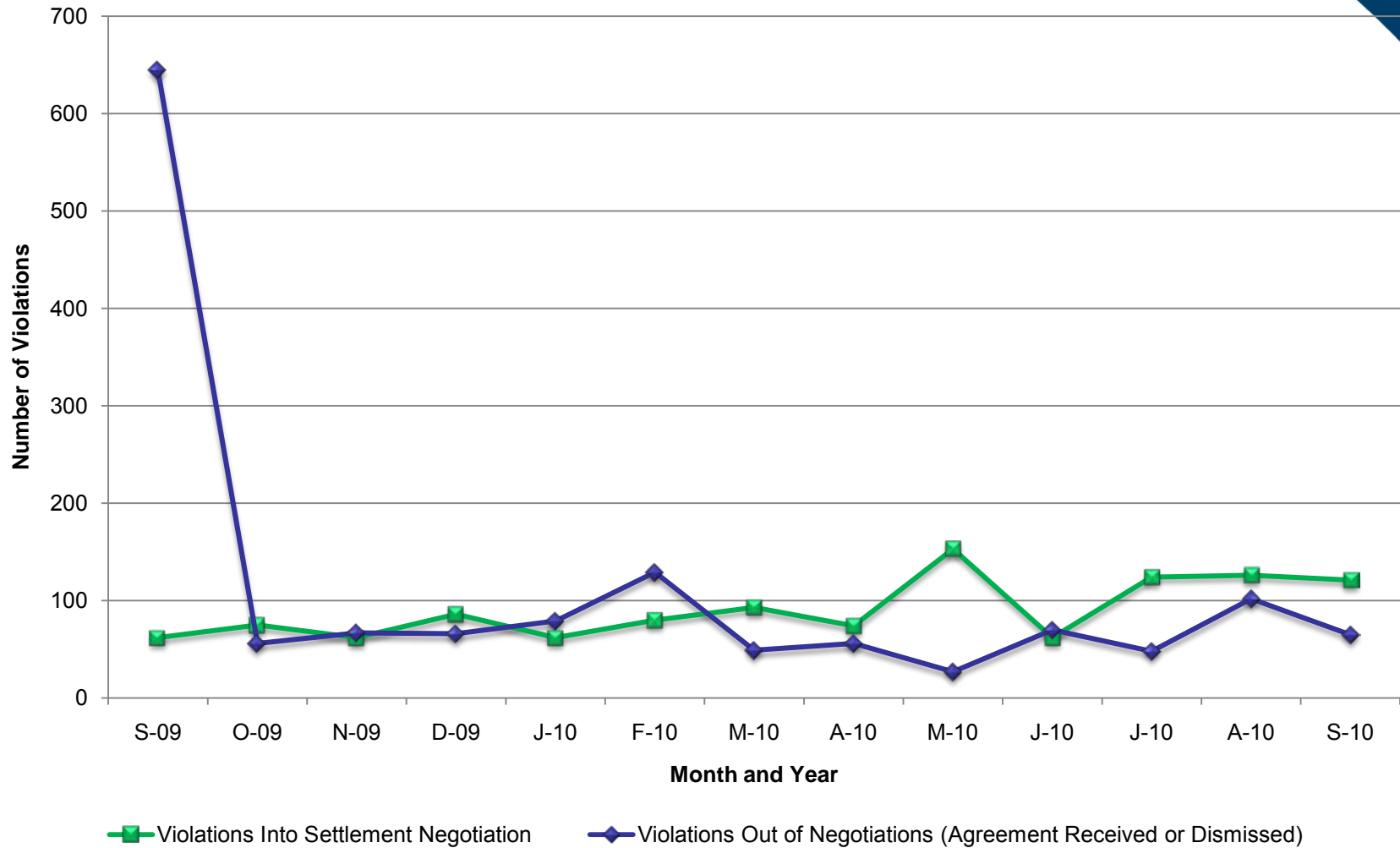


- **Active** – All Violations that have not been Closed or Dismissed
  - *Closed Violations have all the following characteristics:* Violation NOP approved by FERC, Verified Completion of Mitigation Plan, and Payment of any associated Penalties.
- **NERC Work** – Active Violations minus Violation Sub State I (NERC Issues NOP)
- **Unmitigated** – Violations where Mitigation Plans have not been received or not yet been closed minus completed Mitigation Plans that NERC is reviewing
  - *Closed Mitigation Plan:* Regional Entity has Verified Completion of all Mitigated Elements specified by Plan
- **Mitigated** – Active Violations minus Unmitigated
- **Deem Date** – Date of the violation which the Regional Entity is using for purposes of calculating penalties and / or sanctions

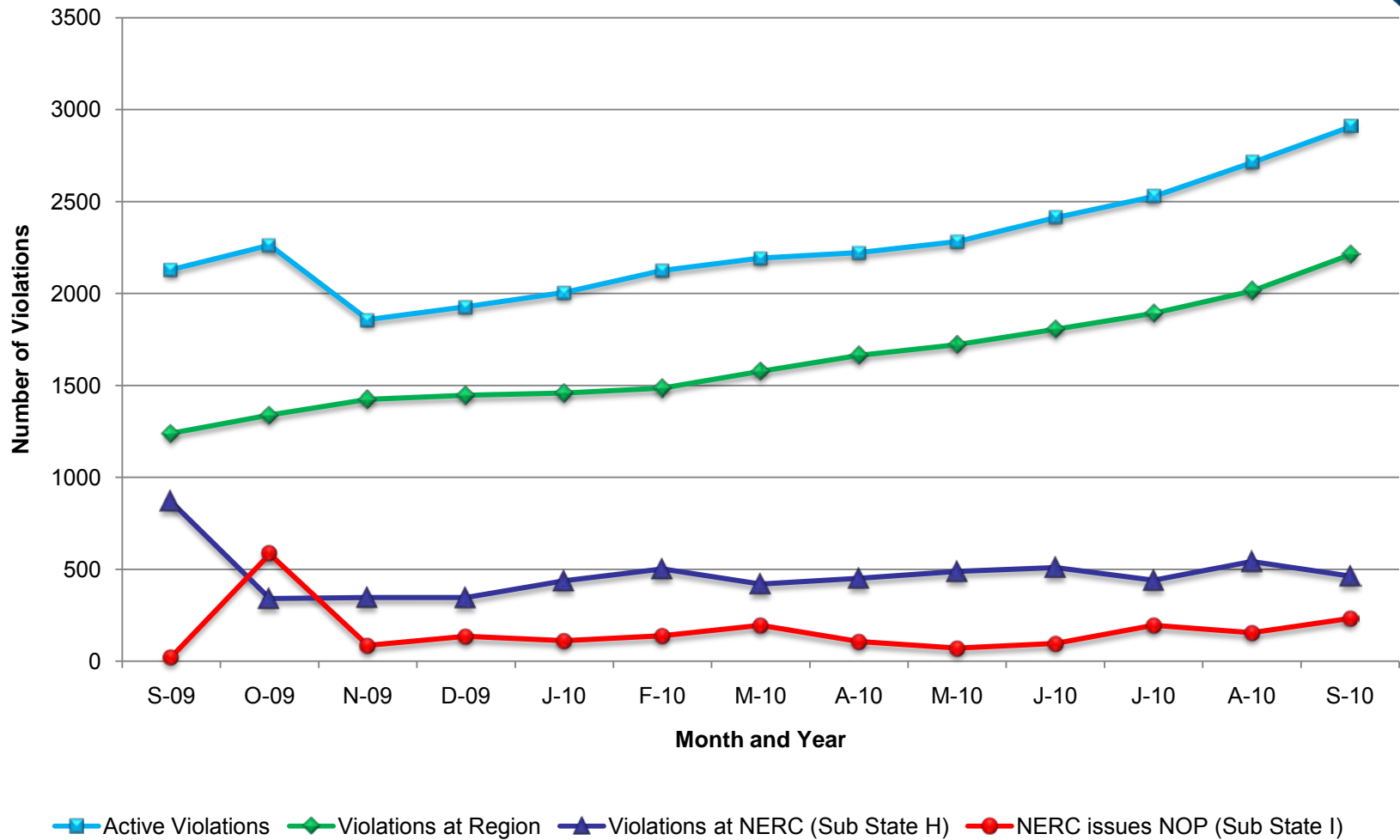
# Violation In/Out Trend



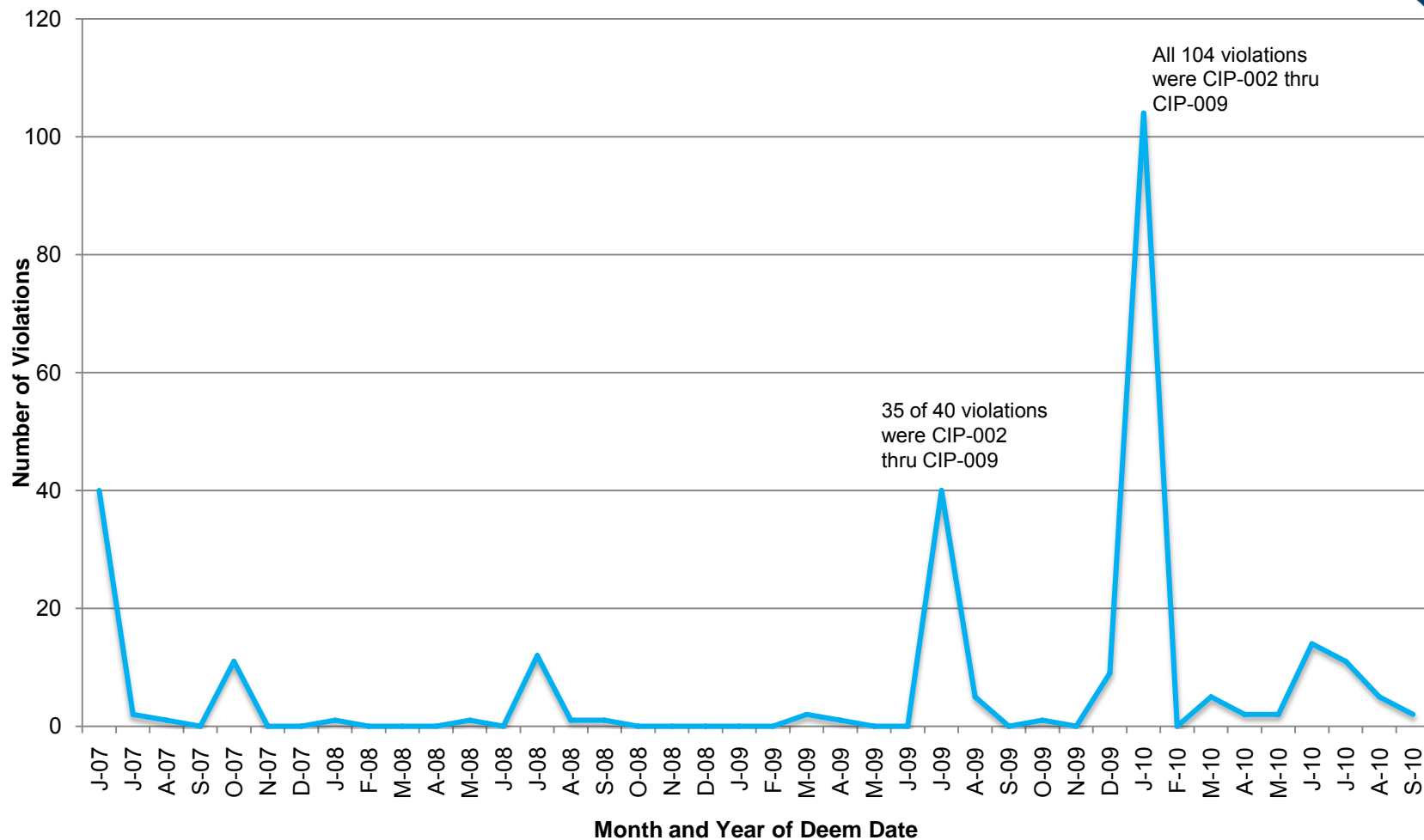
# Settlement Negotiation Trend



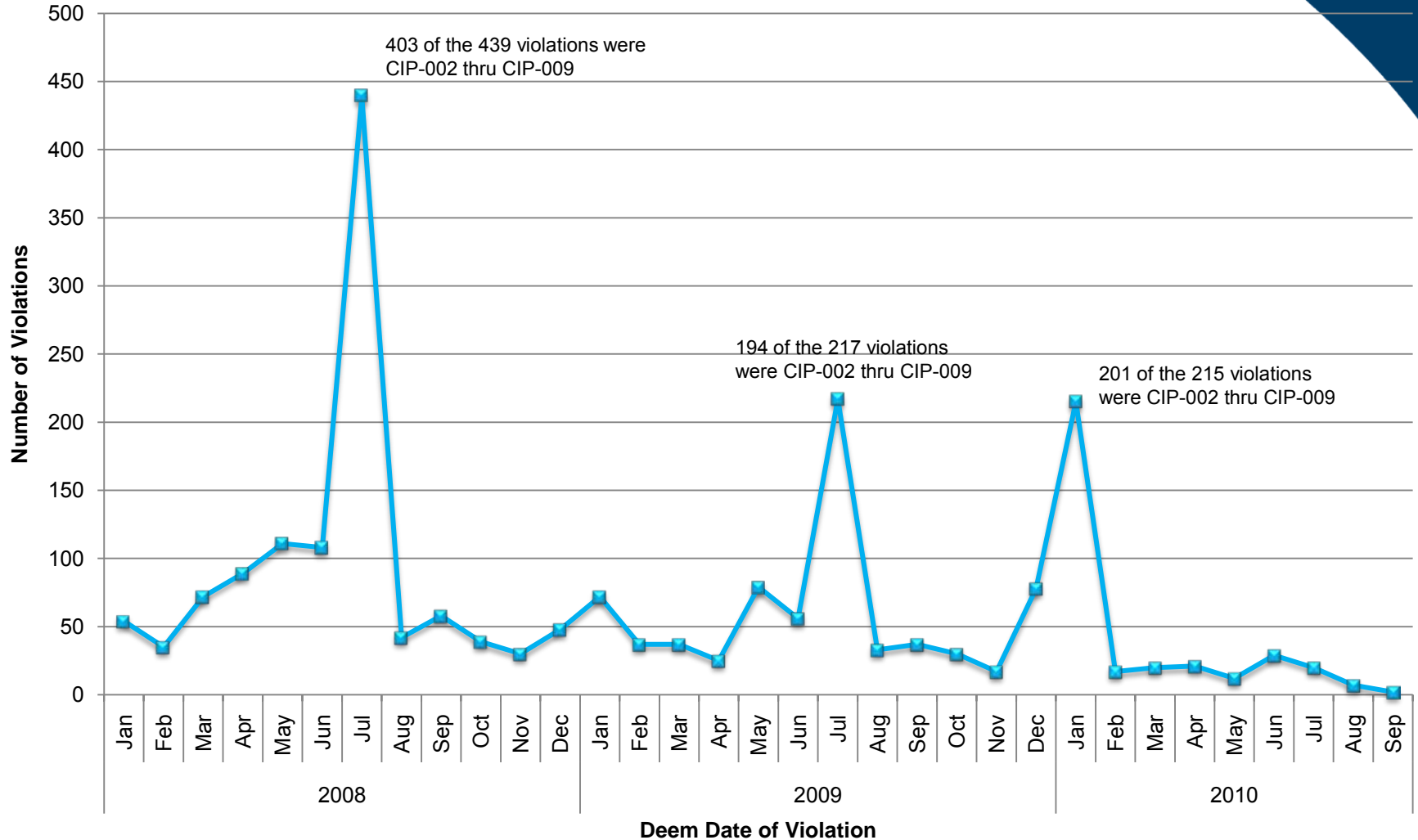
# Violations Active at NERC and Regional Entities



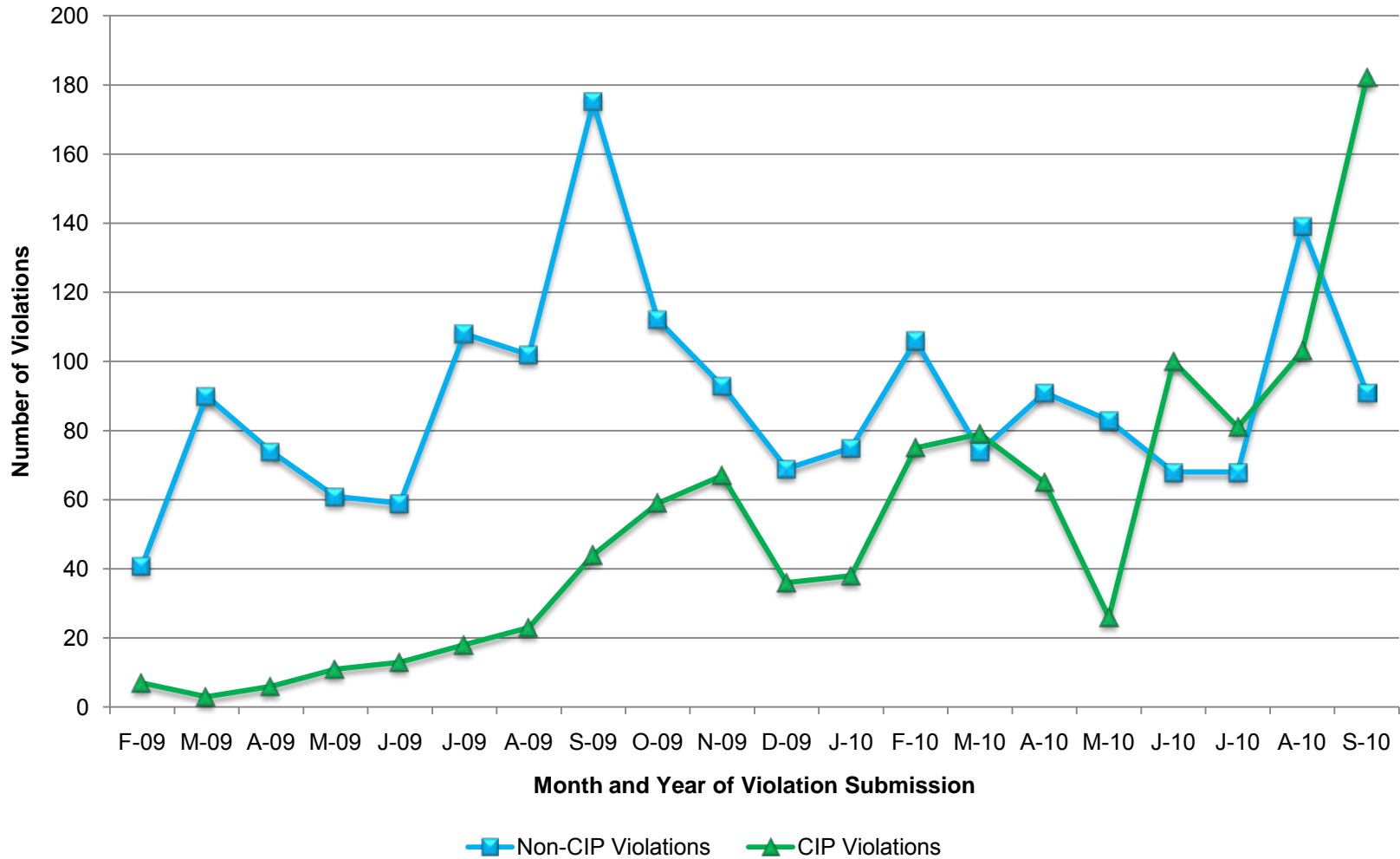
# Deem Dates from September 2010 Violations (273 Violations)



# Deem Date Trend for Active and Closed Violations



# CIP versus Non-CIP Violation Trend





# Violations Approved by BOTCC

