

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Board of Trustees Compliance Committee Open Meeting

August 4, 2010

to ensure  
the reliability of the  
bulk power system

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Compliance Operations

Mike Moon

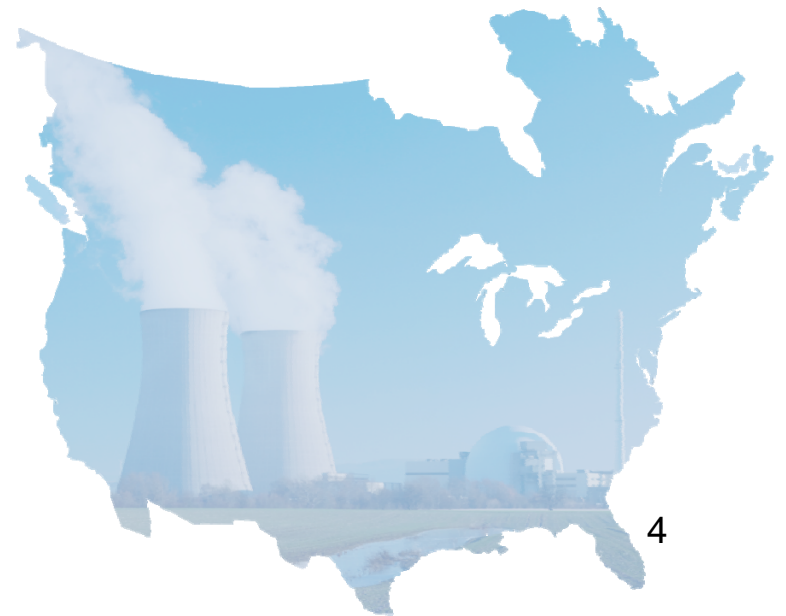
Director of Compliance Operations

to ensure  
the reliability of the  
bulk power system

- Compliance Application Notices
- Multi-Region Registered Entity (MRRE) Program/Process
- Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List
- Top 10 Most Violated Standards and Analysis Papers

## Compliance Application Notices (CANs)

- Purpose and Goals
- Functions of a CAN
- Relationship to FERC-approved Standards
- Process
- Priorities



# Compliance Application Notices

## Purpose:

- Provide guidance on compliance to improve consistency to support both regional and registered entity compliance programs.

## Goals:

- Improve consistency
- Provide transparency
- Identify trends
- Educate and engender a culture of compliance
- Encourage effective self-policing and correction

# Compliance Application Notices

## The CAN will provide:

- Needed guidance for the purposes of compliance monitoring and oversight activities and improve RSAWs
- Compliance information to help support future standards development activities
- Resources to help bridge information gaps between compliance and standards
- A type of sunset clause/review period
- Updates to NERC, Regional Entity Auditors, and the Industry
- Provide updates to auditor training and processes

# Compliance Application Notices

The CAN will **NOT**:

- Supersede standards
- Modify standards

# Compliance Application Notices

## Input:

- Industry Trade Associations and Forums
- NERC Stakeholder Committees (MRC, SC, CCC)
- Other NERC activities (workshops, email, etc.)
- Compliance issues from the Standards Department Informal Guidance Process
- Issues identified from the Regional Staffs
- Regional Entity Audit Reports
- Registered Entity Audit Reports
- Registered Entity Audit Feedback Forms



# Compliance Application Notices

## Process:

- NERC staff:
  - Standards
  - Compliance
  - CIP/Security
  - Ops and Engineering
  - Legal
- Regional Entity
- Industry
- FERC staff review
- Posting

## Key Documents:

- Reliability Standard
- Order 693
- Approved interpretations
- Annual CMEP  
Implementation Plan
- Standards or  
Interpretations under  
development or before  
the NERC BOT or FERC  
for approval

# Compliance Application Notices

- Currently five posted on the NERC website at:  
<http://www.nerc.com/page.php?cid=3|22|354>
- Approximately **60** items
  - List is increasing
  - Does not include possible:
    - Best Practices
    - Lessons Learned
- Tracking sheet
  - Provided to NERC CCC, Industry Trade Associations, and Forums
  - Tracking sheet will be posted on the NERC website

# Multi-Region Registered Entity Program/Process

## NERC Draft

- Sent for review and comment on June 30, 2010 to Trade Associations, CCC, Regional Entities and RE Workgroups
- Due date for comments – Friday, July 16, 2010
- Next step is completion of implementation plan
- Submit to ERO Executive Management Group for approval fourth quarter 2010

# Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List

## Development of 2011:

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

## OBJECTIVE:

Use a risk-based 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.

# Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List

## Basic Objectives:

- Facilitate uniformity of compliance activities throughout North America
- Improve the compliance program by analyzing the compliance monitoring experience across North America and implementing necessary improvements
- Promote the reliability of the bulk power system through rigorous compliance monitoring and enforcement activities

# Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List

## Criteria for Selection of Standards Audited:

- FERC Mandated
- High Violation Risk Factor (VRF)
- 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

# Risk-Based Criteria/Methodology for 2011 CMEP and Actively Monitored List

Reliability Standards are reviewed to identify those that pose a high risk/high impact on the BES based on:

- The VRF assigned to each requirement
- The top 5 based on the VRI developed by the CCC Performance Measures Task Force
- Input from NERC staff and Regional Entities

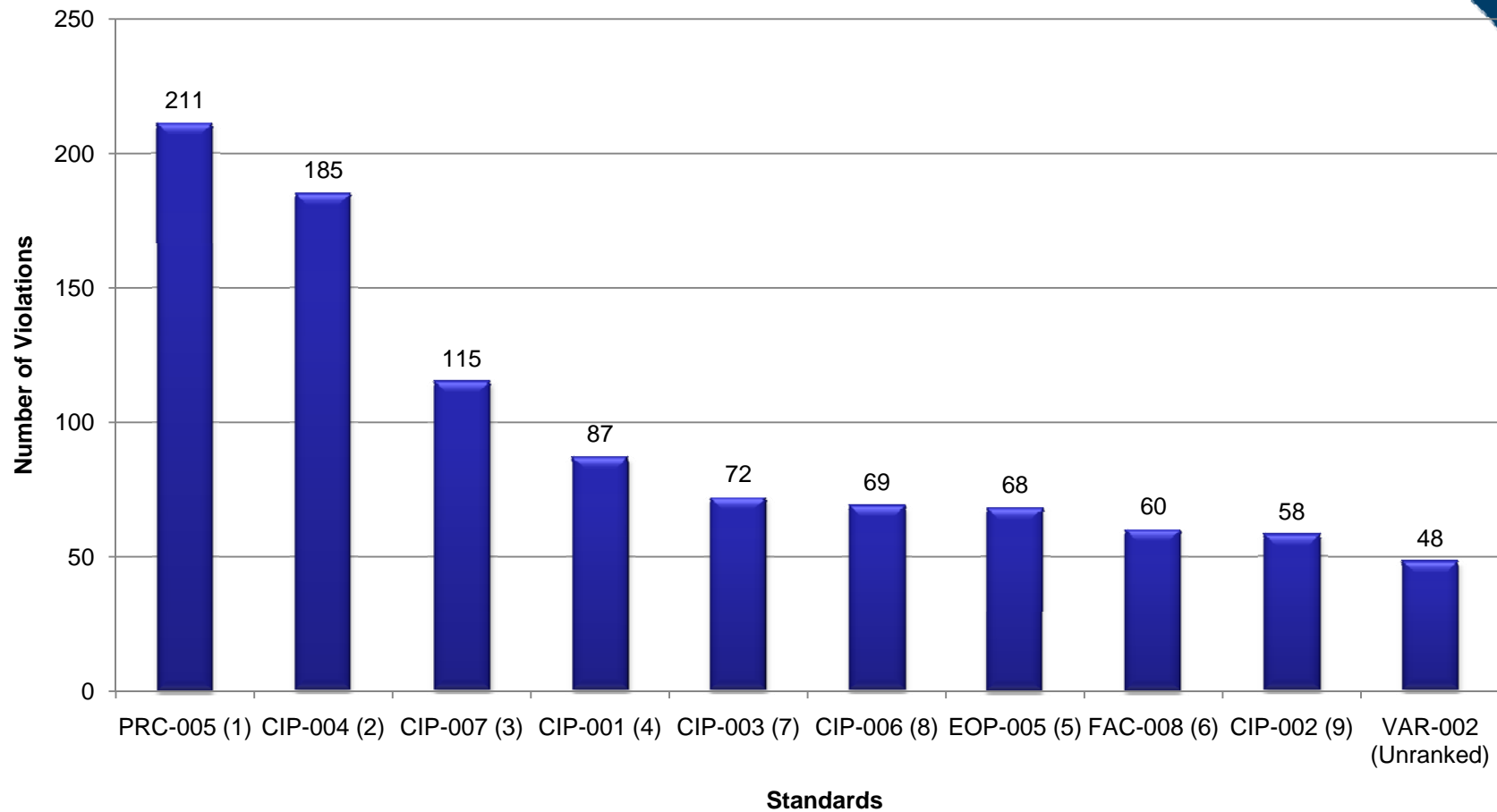
Separate the list based on ability to audit from documentation off-site versus audit on-site by observation.

Capture the need for action plans to ensure regions receive documentation for standards to be audited off-site from documentation.

Review initial list of standards to be audited on-site and off-site with the regions.

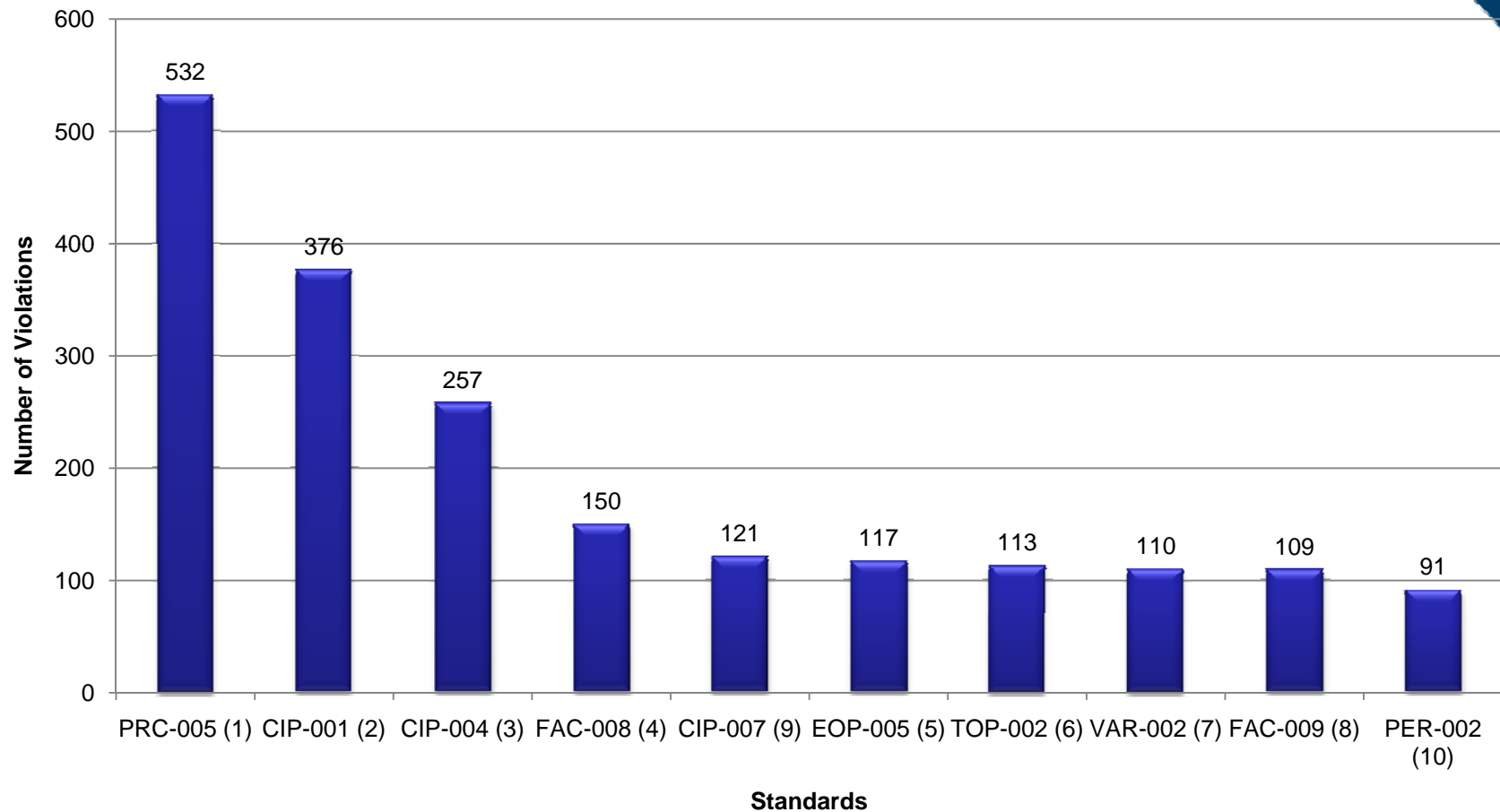
# Top 10 Most Violated Standards

## Rolling 12 Months: 7/1/2009 thru 6/30/2010





# Top 10 All Time Violated Standards Active + Closed Violations thru 6/30/2010



# Top Ten Violated Standards Analysis

	NERC Analysis	NERC Analysis to BOTCC	RCIG Analysis	RCIG Analysis to BOTCC	Posted to NERC Website
PRC-005	Complete	Complete	Complete	Complete	Complete
CIP-004	Complete	Complete	Complete	Complete	Complete
FAC-008 / FAC-009	Complete	Complete	Complete	Complete	Complete
CIP-001	Complete	Complete	Complete	Complete	Complete
VAR-002	Complete	Complete	Aug BOTCC		
PER-002	Complete	Complete	Sep BOTCC		
FAC-003	Initiated				
PRC-004	Next in Queue				
EOP-005	2 <sup>nd</sup> in Queue				

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## Compliance Enforcement

Joel deJesus

Director of Compliance Enforcement

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bulk power system

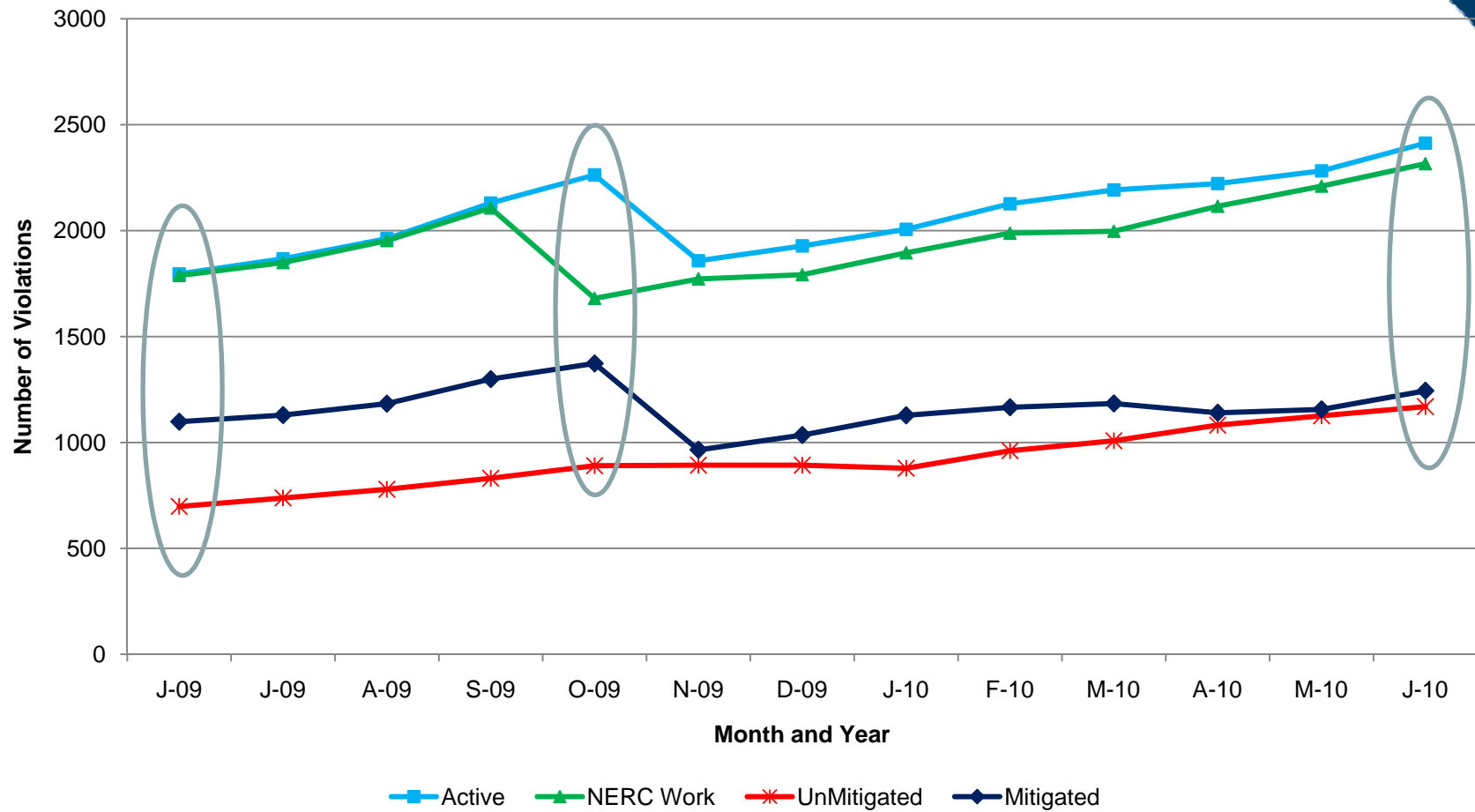
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## Trend on Non-Confirmed Violations Awaiting Submittal of Mitigation Plans

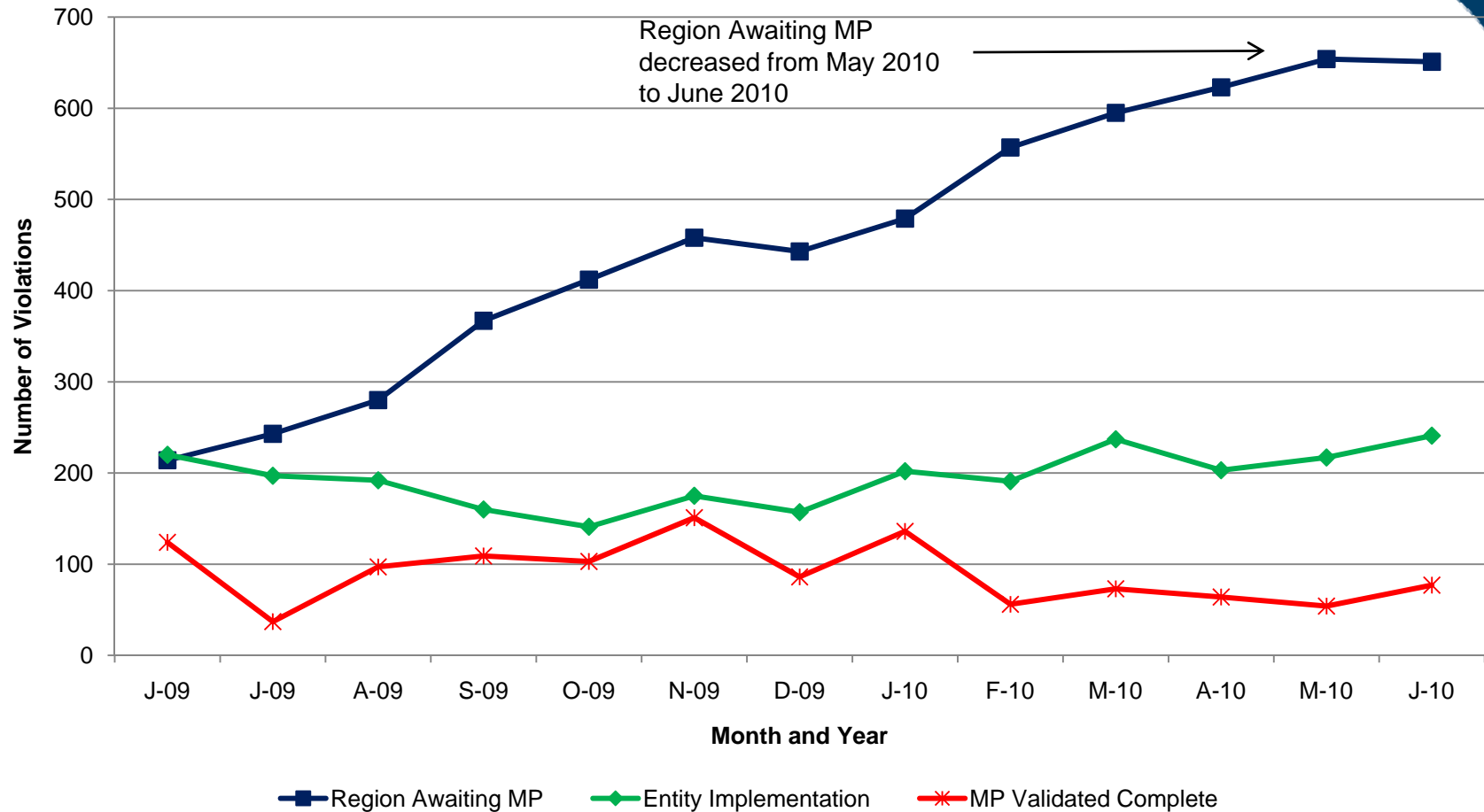
to ensure  
the reliability of the  
bulk power system

# Compliance Processing Statistics



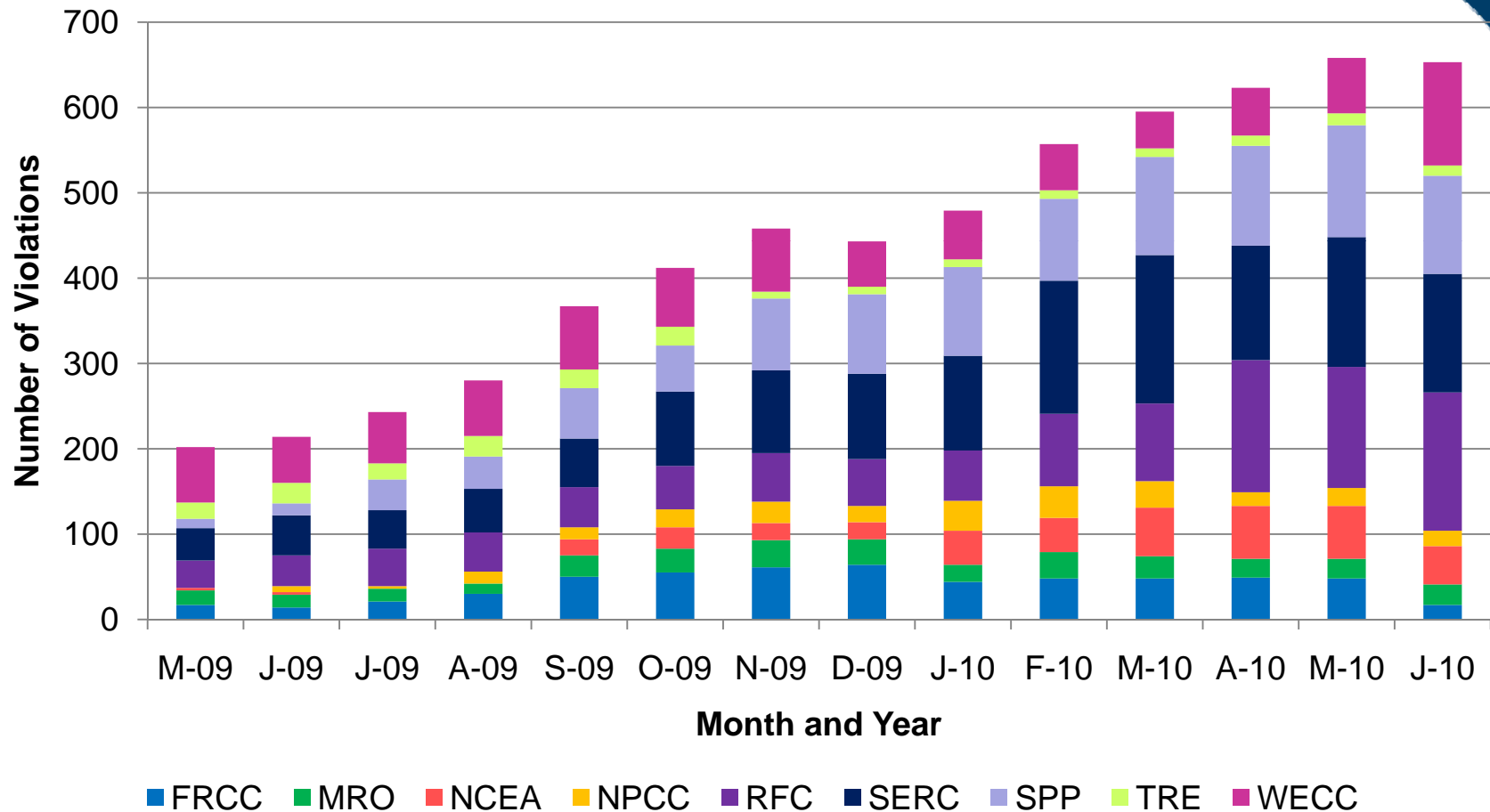
Data as of July 1, 2010

# Mitigation Status at Regions



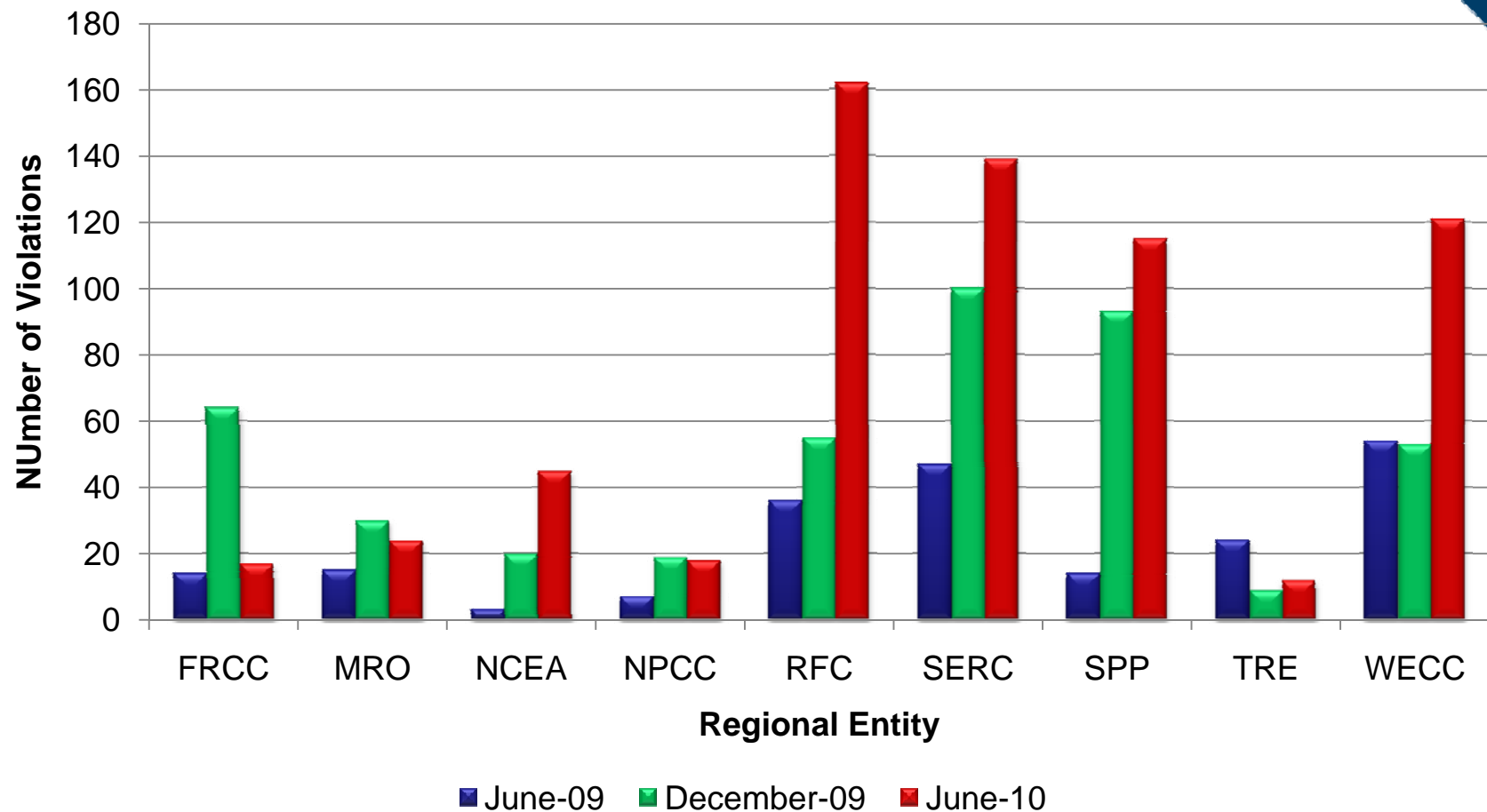
Data as of July 1, 2010

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



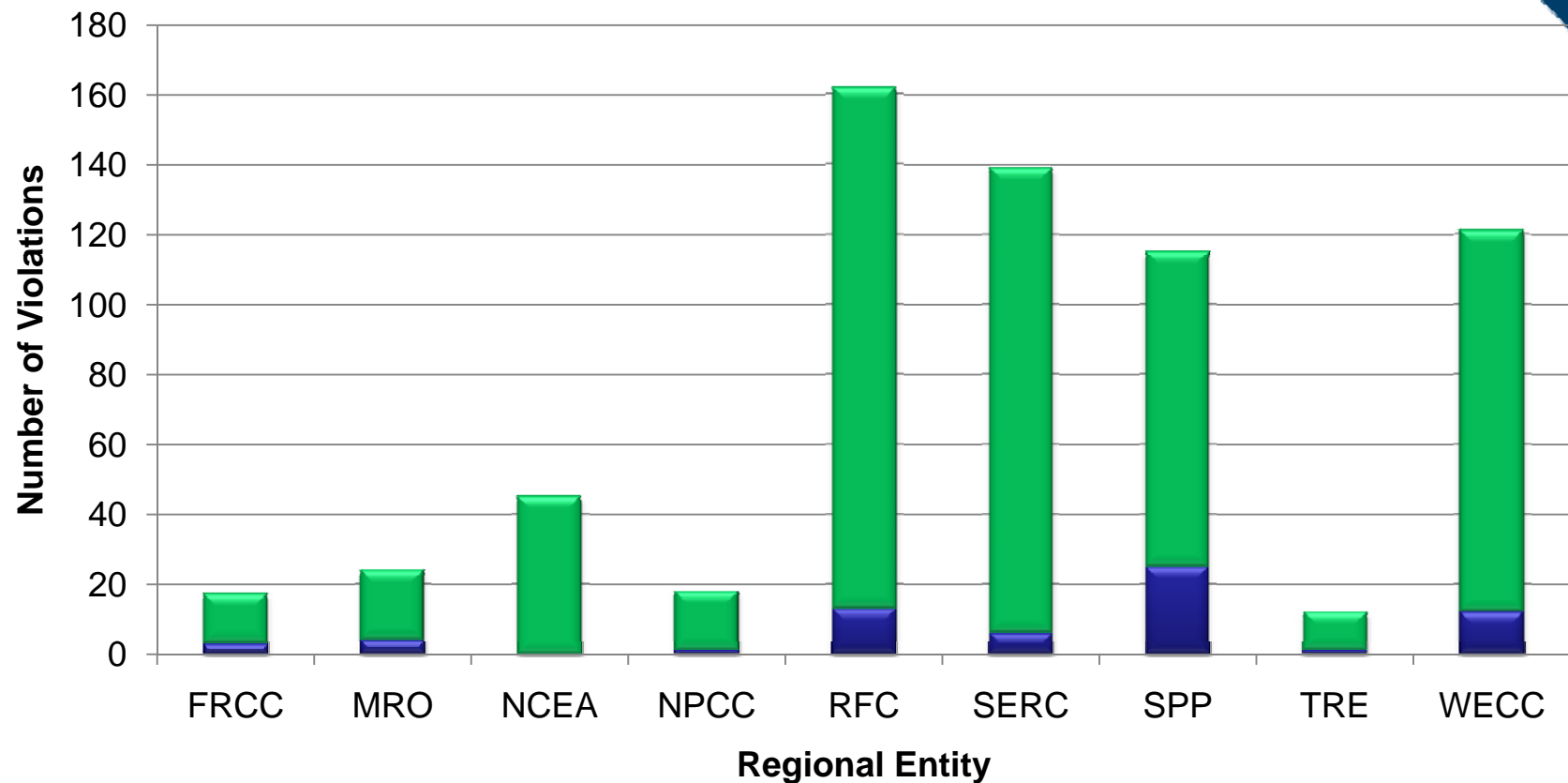
Data as of July 1, 2010

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





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

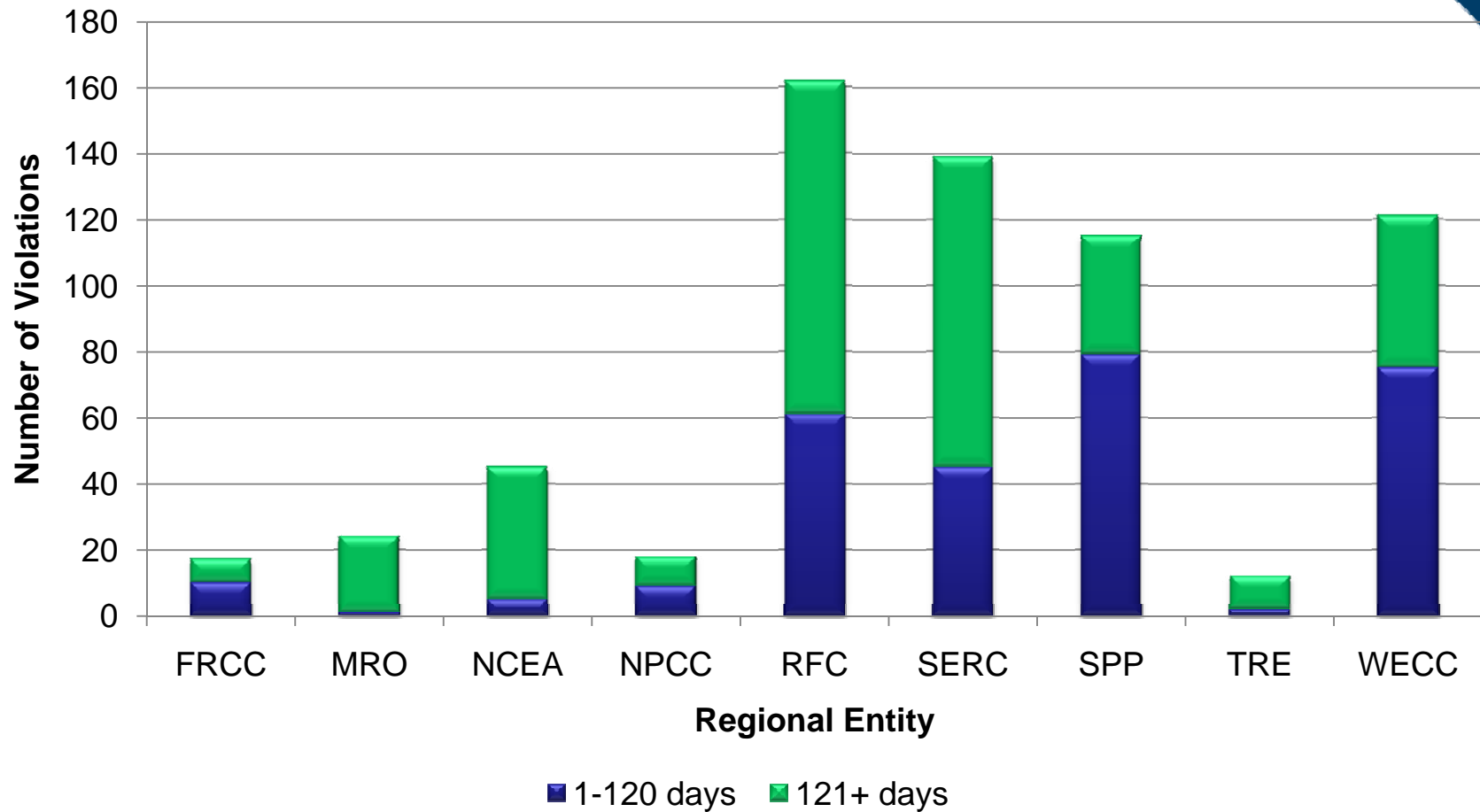


■ In Settlement Negotiation (65 Violations) ■ Not in Settlement Negotiation (588 Violations)

Data as of July 1, 2010

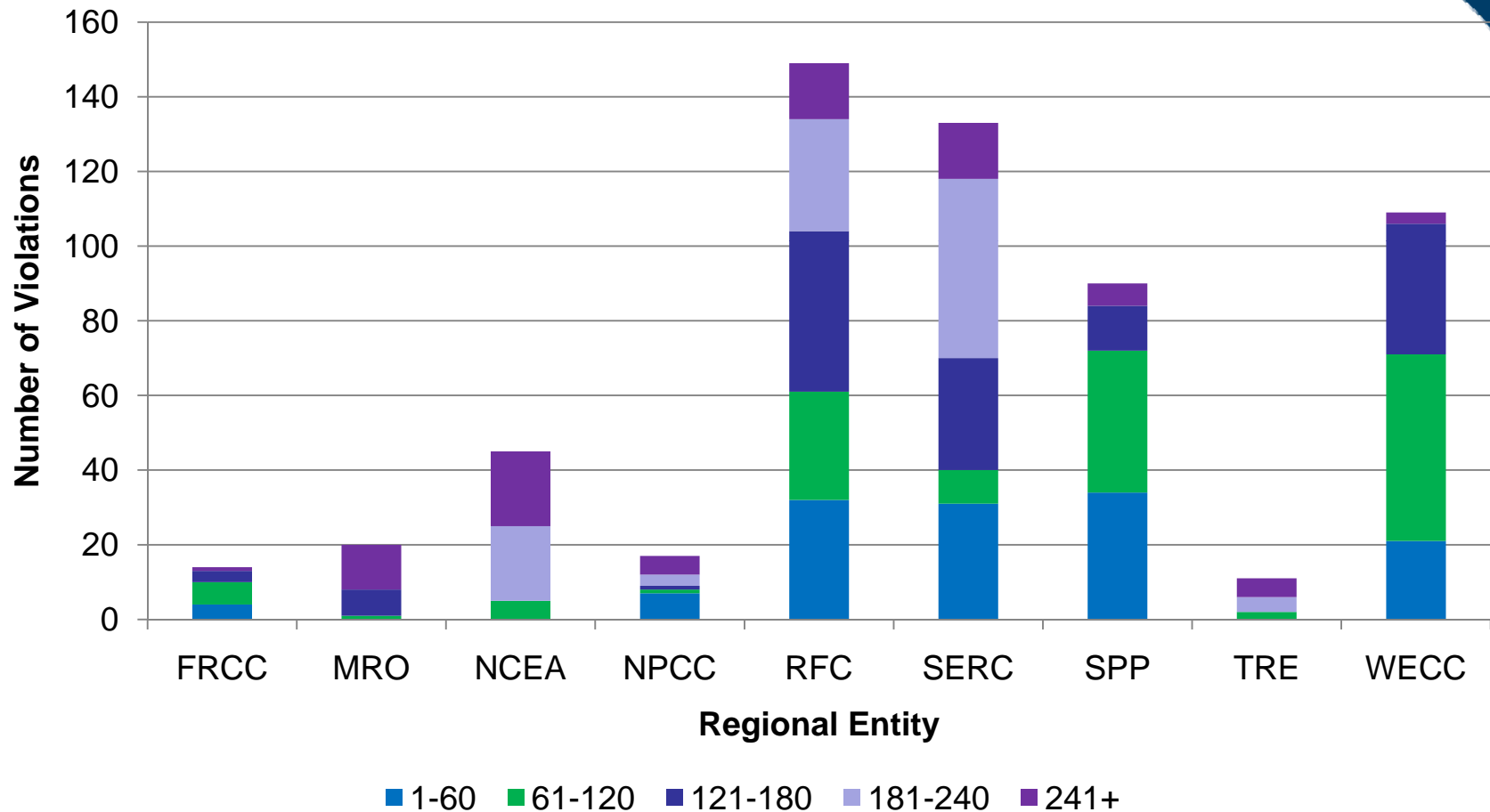
Not in Settlement Violations include six (6) violations that are awaiting further processing at NERC and the Regions

# Age of Non-Confirmed Violations without Submitted MP



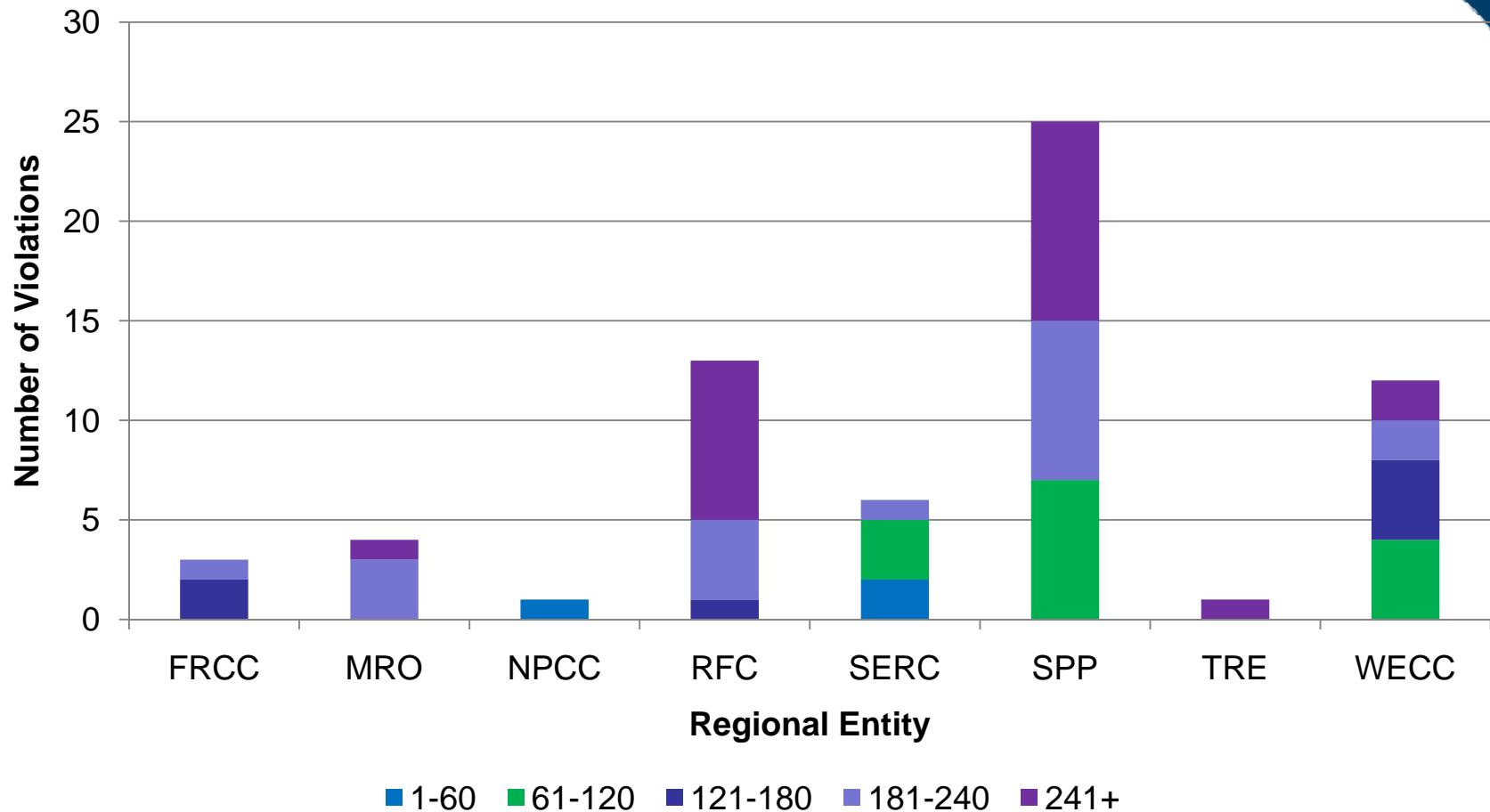
Data as of July 1, 2010

# Age of Non-Confirmed Violations without Submitted MP -- Not in Settlement Negotiations



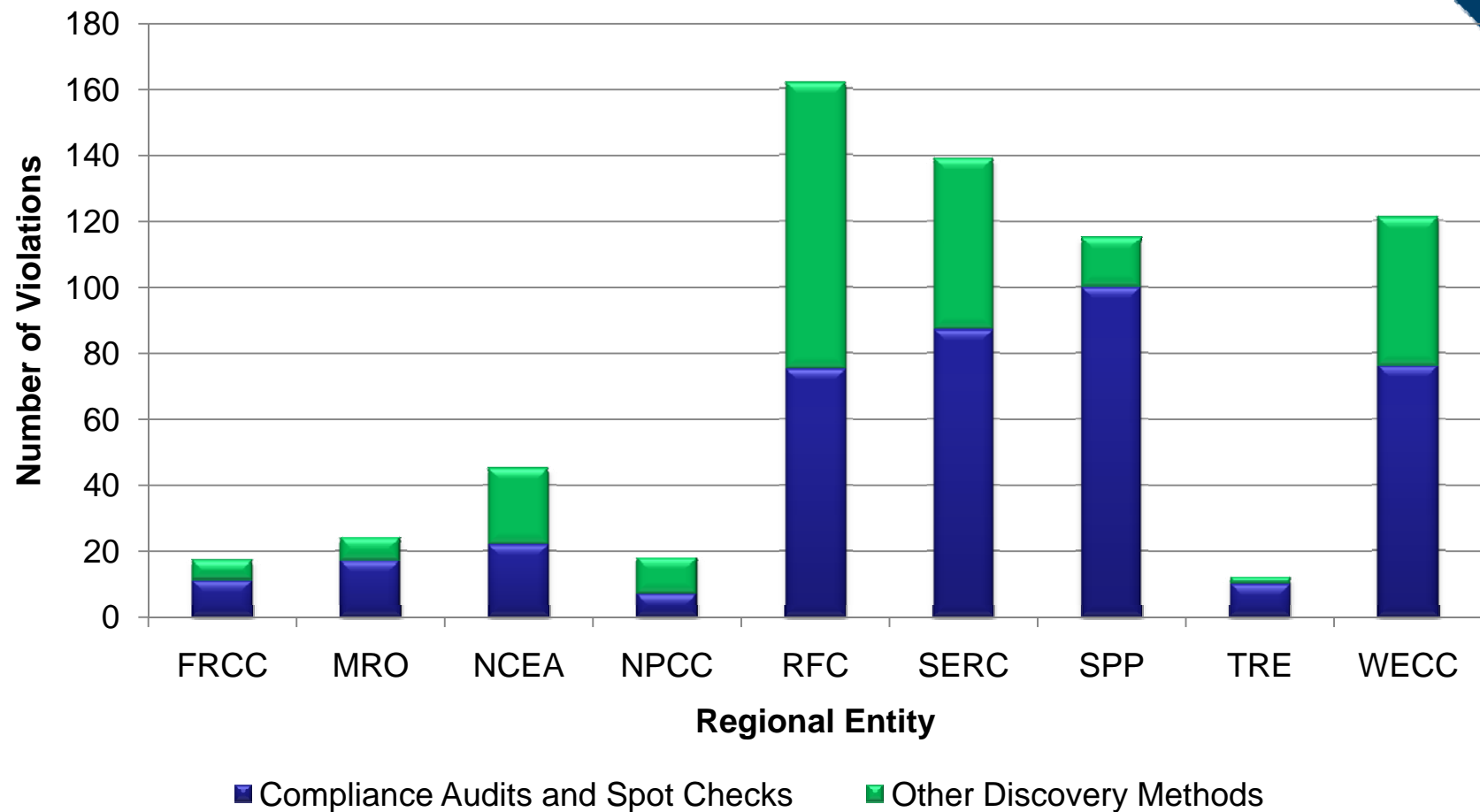
Data as of July 1, 2010

# Age of Non-Confirmed Violations without Submitted MP -- in Settlement Negotiations



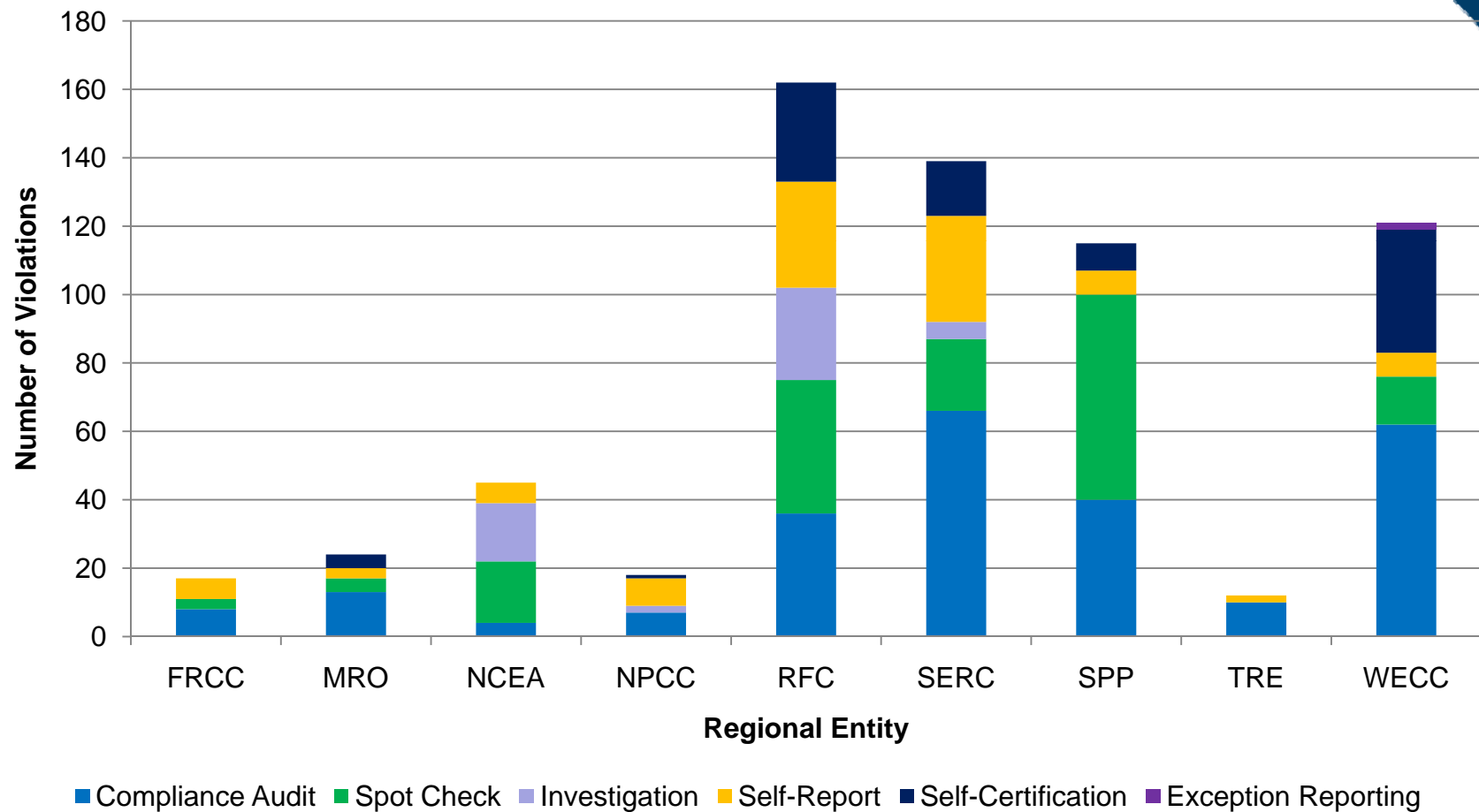
Data as of July 1, 2010

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



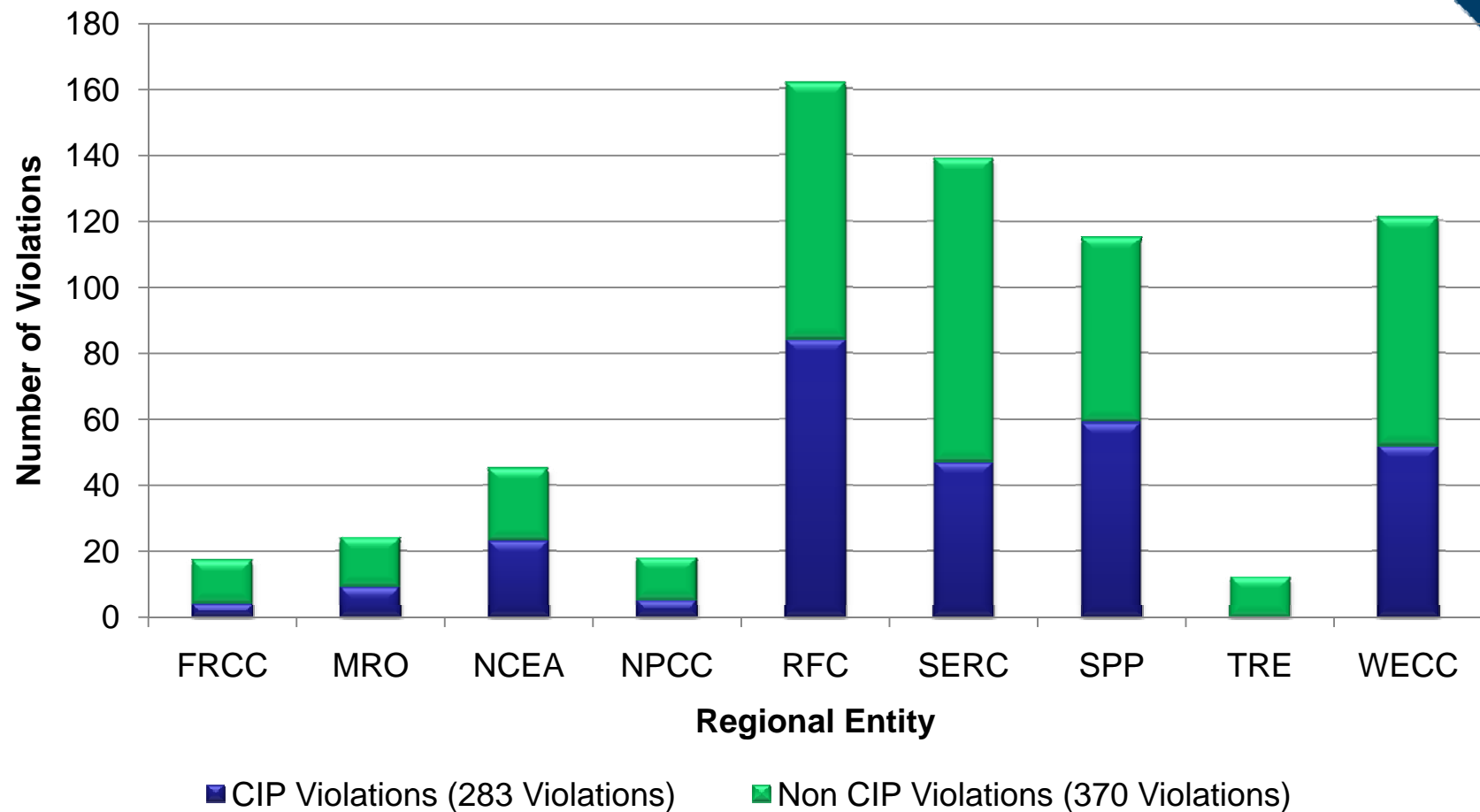
Data as of July 1, 2010

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



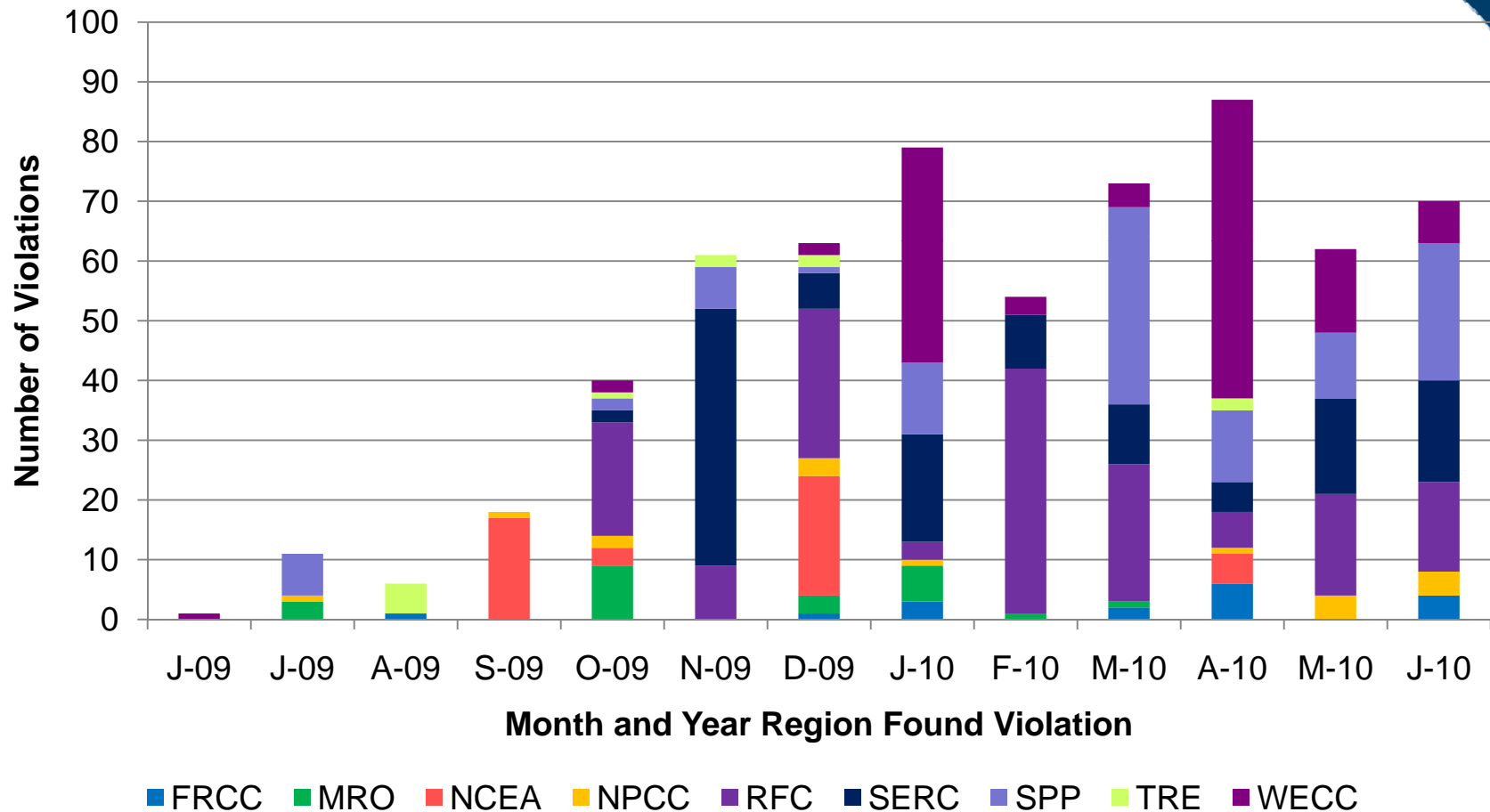
Data as of July 1, 2010

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



Data as of July 1, 2010

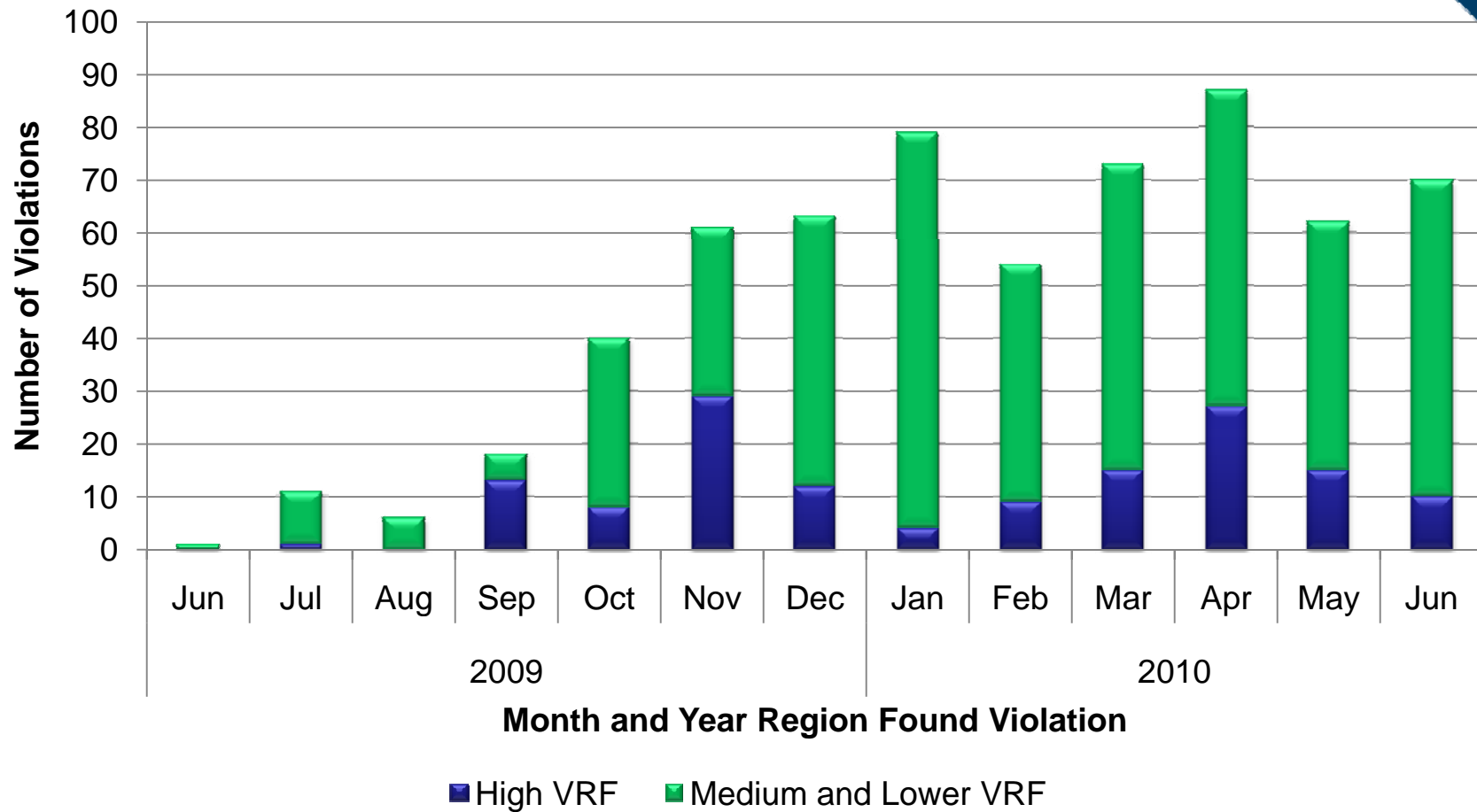
# Non-Confirmed Violations without Submitted MP -- by Region and Date of Discovery



Data as of July 1, 2010

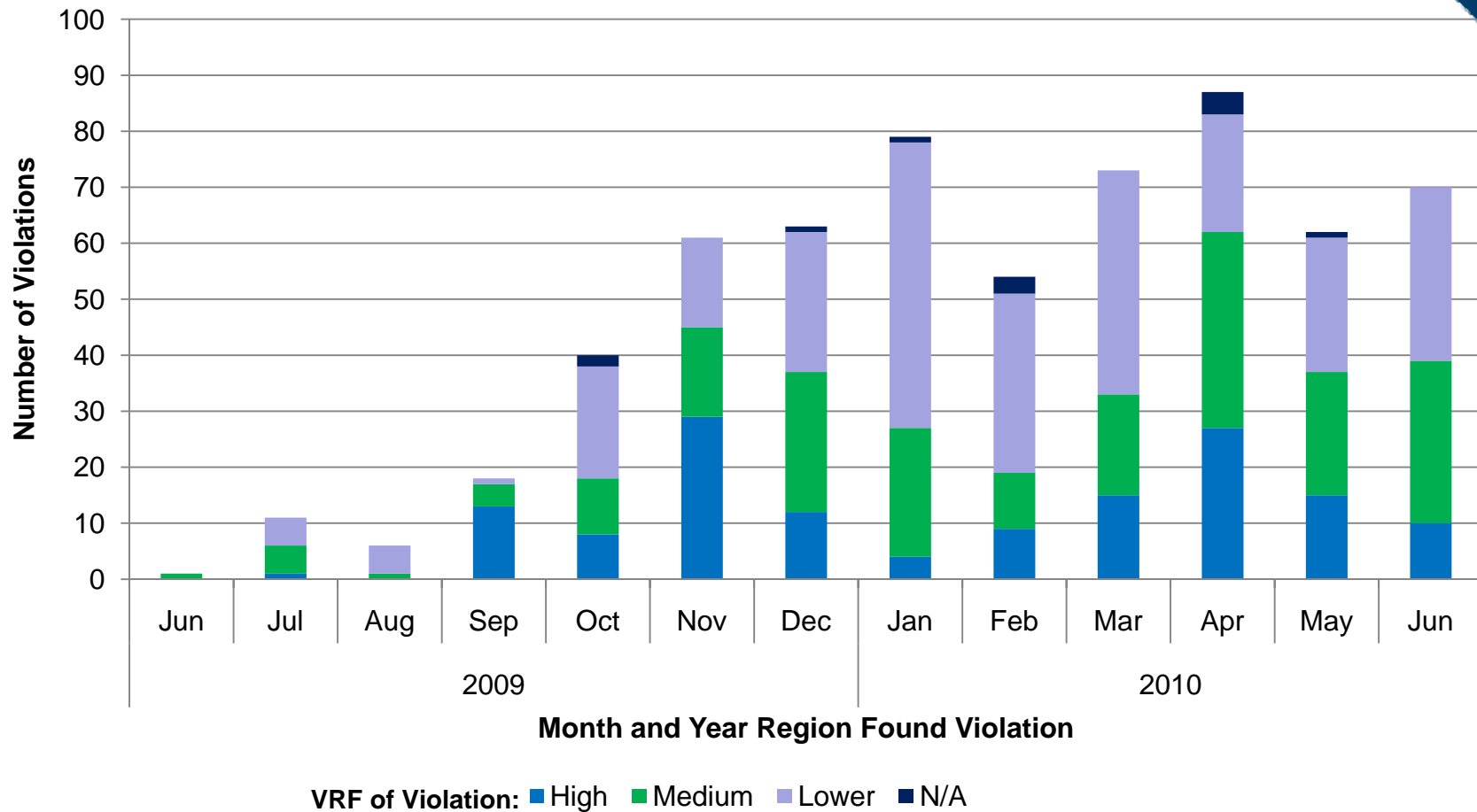


# Non-Confirmed Violations without Submitted MP -- by VRF and Date of Discovery



Data as of July 1, 2010

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



Data as of July 1, 2010

- No real unifying theory – every region is different
- Key Drivers
  - Processing issues related to reporting – No way to track mitigation plans that come in as drafts
  - Individual registered entities with multiple violations
    - Of the 651 violations awaiting MPs, 20 entities account for 57%
  - Uncertainties about CIP Standards and Complexity of CIP MPs
    - 43% deal with CIP-002 through CIP-009
  - CEA-identified violations take more time to address
    - 62% deal with audits and spot checks
    - *But* a significant portion are self-reports (16%)
    - Also a significant portion are >180 days (35%)

## Benefits to Early Submission of MPs

- Faster resolution of risks to the BPS
- Mitigation of Risk = Mitigation of Penalties
  - Voluntary Corrective Action — ERO Sanctions Guidelines § 4.3.3
  - Presence and Quality of Compliance Program — ERO Sanctions Guidelines § 4.3.5
  - Duration of Violations — ERO Sanctions Guidelines § 3.21
  - Submission of an MP is not an admission — CMEP §5.1(vi)
- Early submission allows iterative improvements with REs which allows for better mitigation plans
- NERC's vision depends on the industry "leaning in"

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## Streamlining Enforcement Actions

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# Draft Notice of Penalty Process Paper

- Disposition document
  - Attachment to NOP *or* Settlement Agreement
- Tiers of cases
  - Full NOP
  - Abbreviated NOP
  - Deficiency NOP

# Expected Efficiencies

- Drafting efficiency
- Scaled scope
- Scaled evidentiary requirements
- Reduced process

## Current Status by Tier (Jan-July)

- 51 Abbreviated NOPs; 13 filed at FERC (165 violations)
- 7 Deficiency NOPs; 1 filed at FERC (8 violations)
- 2 Full NOPs; 1 filed at FERC (22 violations)
- 18 Omnibus II (59 violations) and 89 Traditional NOPS (338 violations)
- In total, 36% of all NOPs presented to the BOTCC from January to July 2010 used streamlining format
  - 31% - Abbreviated NOPs
  - 4% - Deficiency NOPs
  - 1% - Full NOPs



- Regional Entity utilization of Disposition Document and NOP templates is needed to realize full efficiencies
- NERC and Regional Entities agreed not to rewrite existing old-format settlements and NOCVs.
- To date, 17 cases submitted to NERC using new formats.
- All but 2 regions (plus NERC as CEA) have submitted cases in the new format.

## Conclusions on Status

- Comments solicited at May BOTCC meeting, CCC, EEI and other trade associations. Generally positive feedback
- The expectation is that the Regions' implementation of the Disposition Document and Waiver Settlement Agreement will create greater efficiencies in the field
- Process improvements:
  - Expedited internal process for Deficiency NOPs
  - Settlement and non-settlement options for Deficiency NOPs
  - Utilization of Disposition Document as Mitigation Plan

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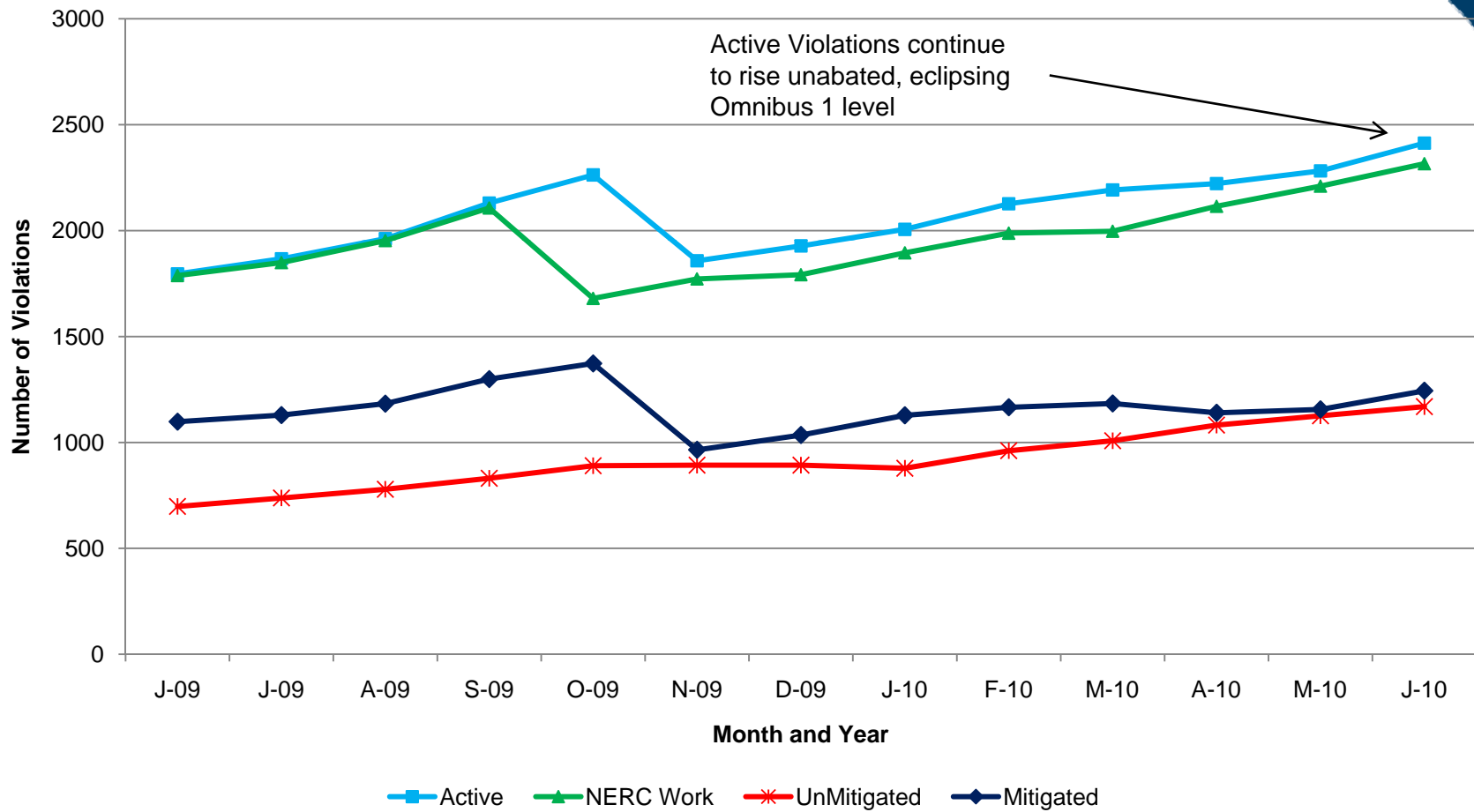
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## Violations Processing Trending

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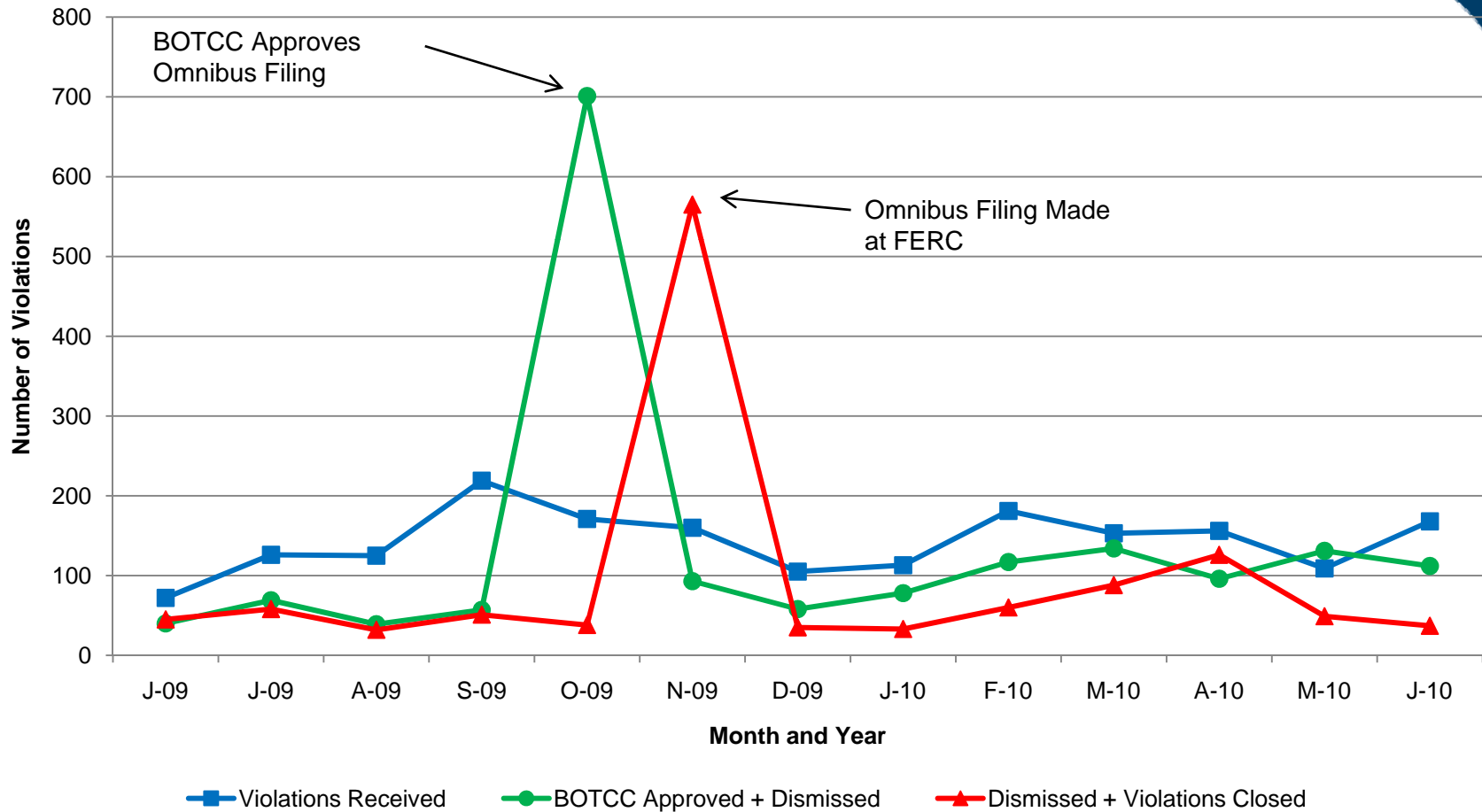
- New Violations in June were received at a rate **higher** than the rolling 6 month average
  - 6 Month Violation Receipt Average (Dec 2009 through June 2010) = 147 violations/Month
  - 168 Violations Received in June 2010 compared to 109 Violations Received in May 2010
  - In June 2010, 100 CIP violations were received compared to 68 Non-CIP violations

# Compliance Processing Statistics

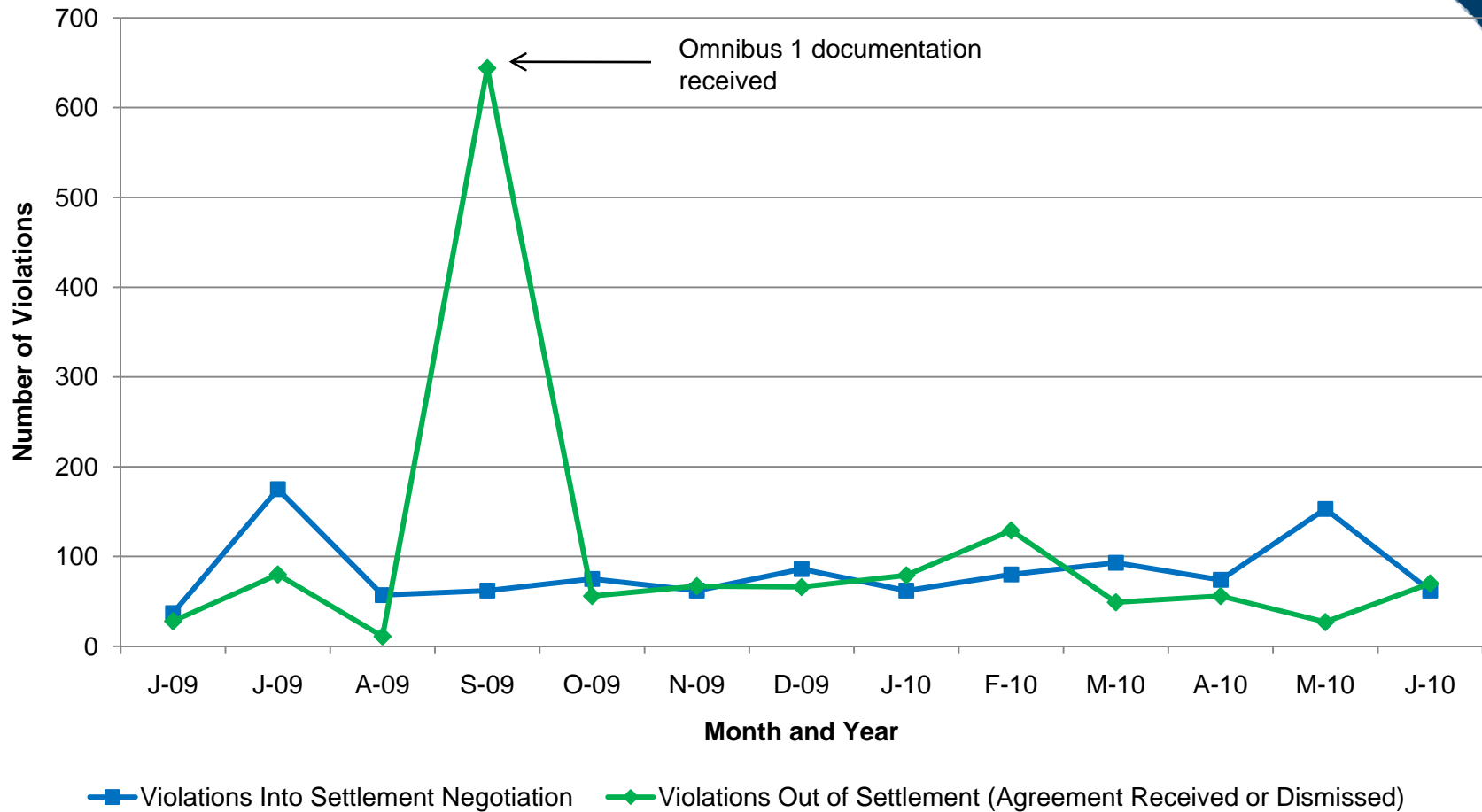


- **Active** – All Violations that have not been Closed or Dismissed
  - *Closed Violations have all the following characteristics: Violation NOP approved by FERC, Verified Completion of Mitigation Plan, and Payment of any associated Penalties.*
- **NERC Work** – Active Violations minus Violation Sub 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

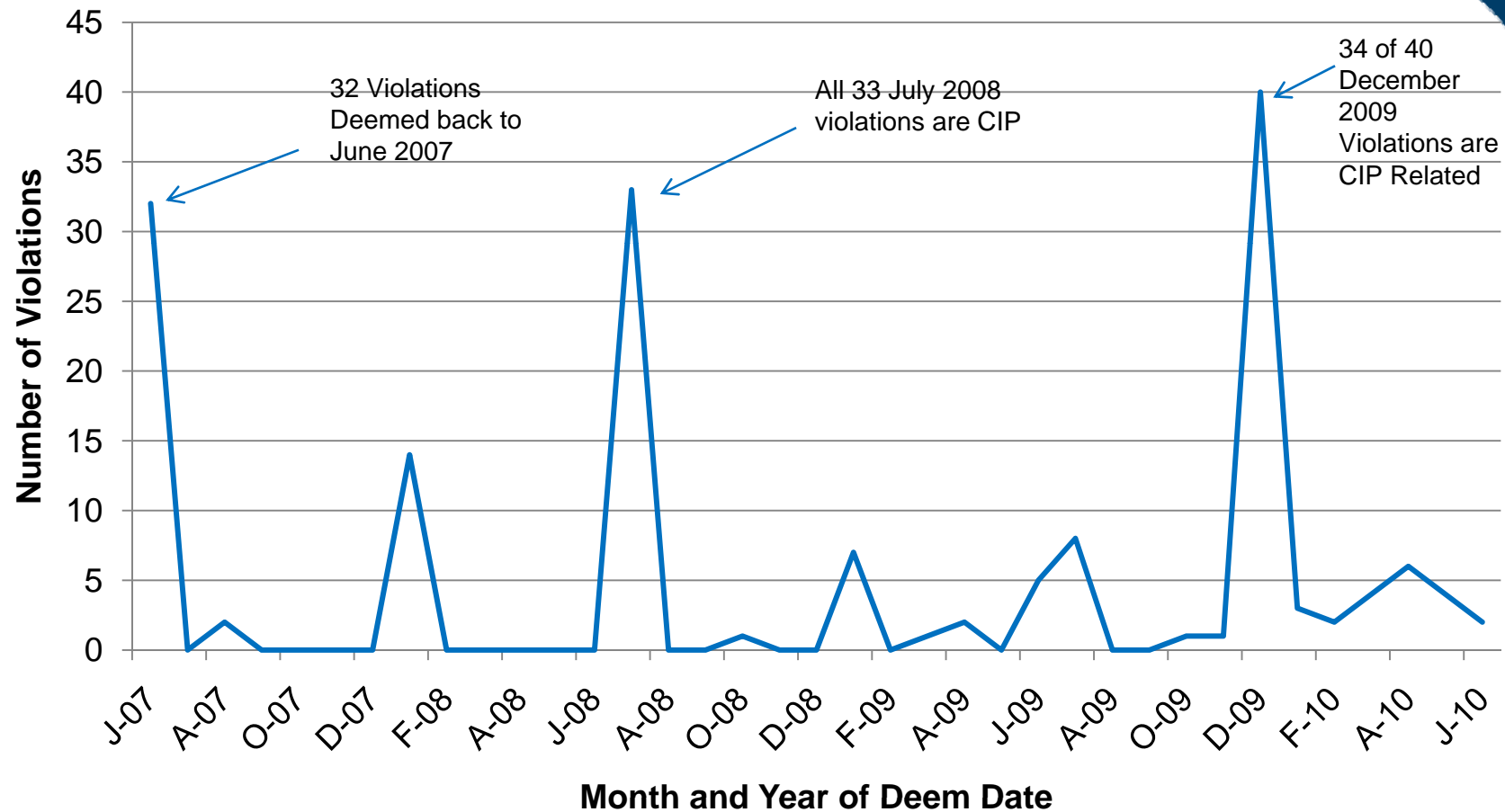


# Settlement Negotiation Trend





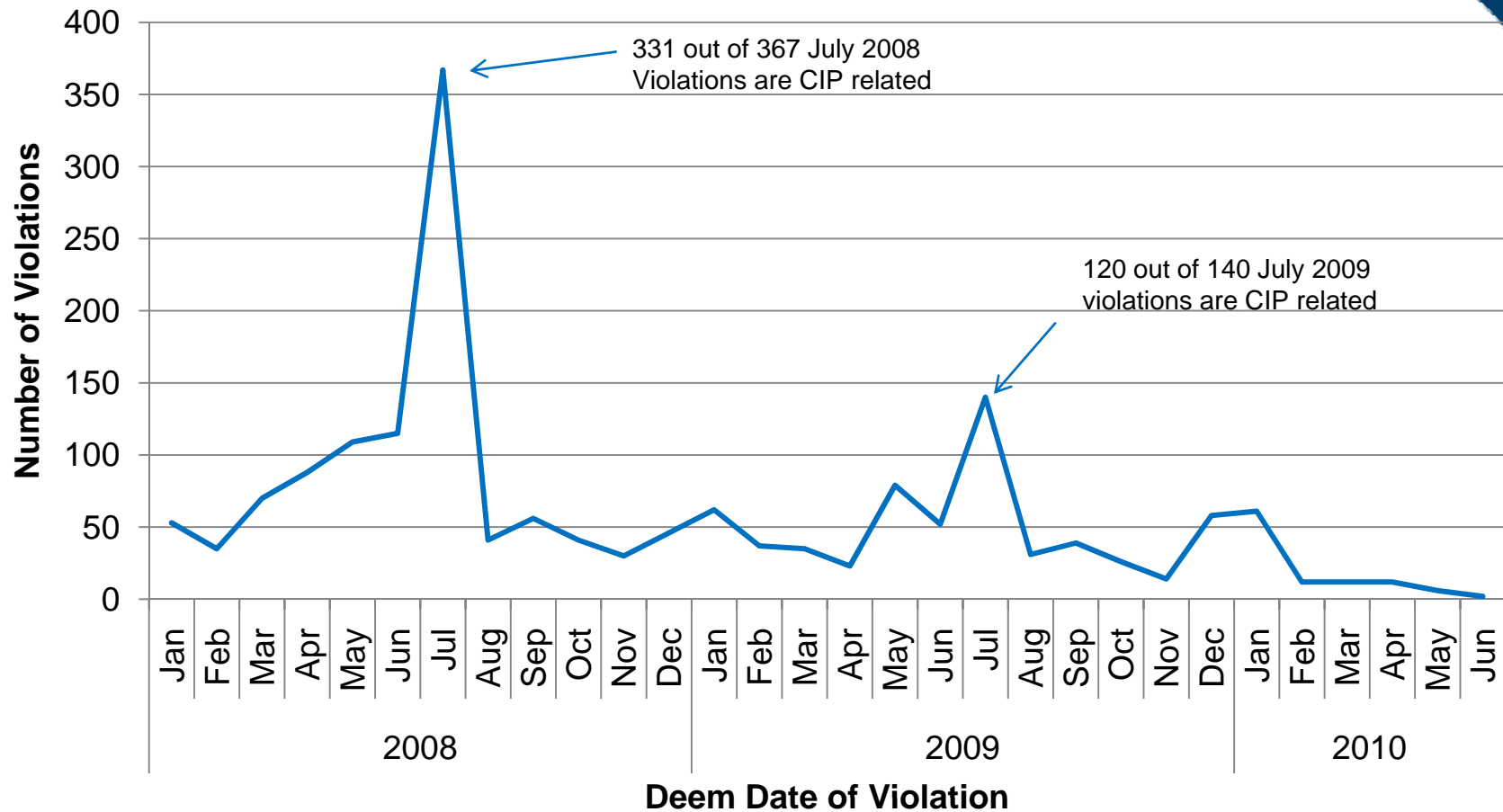
# Deem Dates from June 2010 Violations (168 Violations)



July 1, 2010

The Overwhelming majority of violations have been deemed back to 6/18/2007 due to a change from non-voluntary to mandatory adherence to Reliability Standards

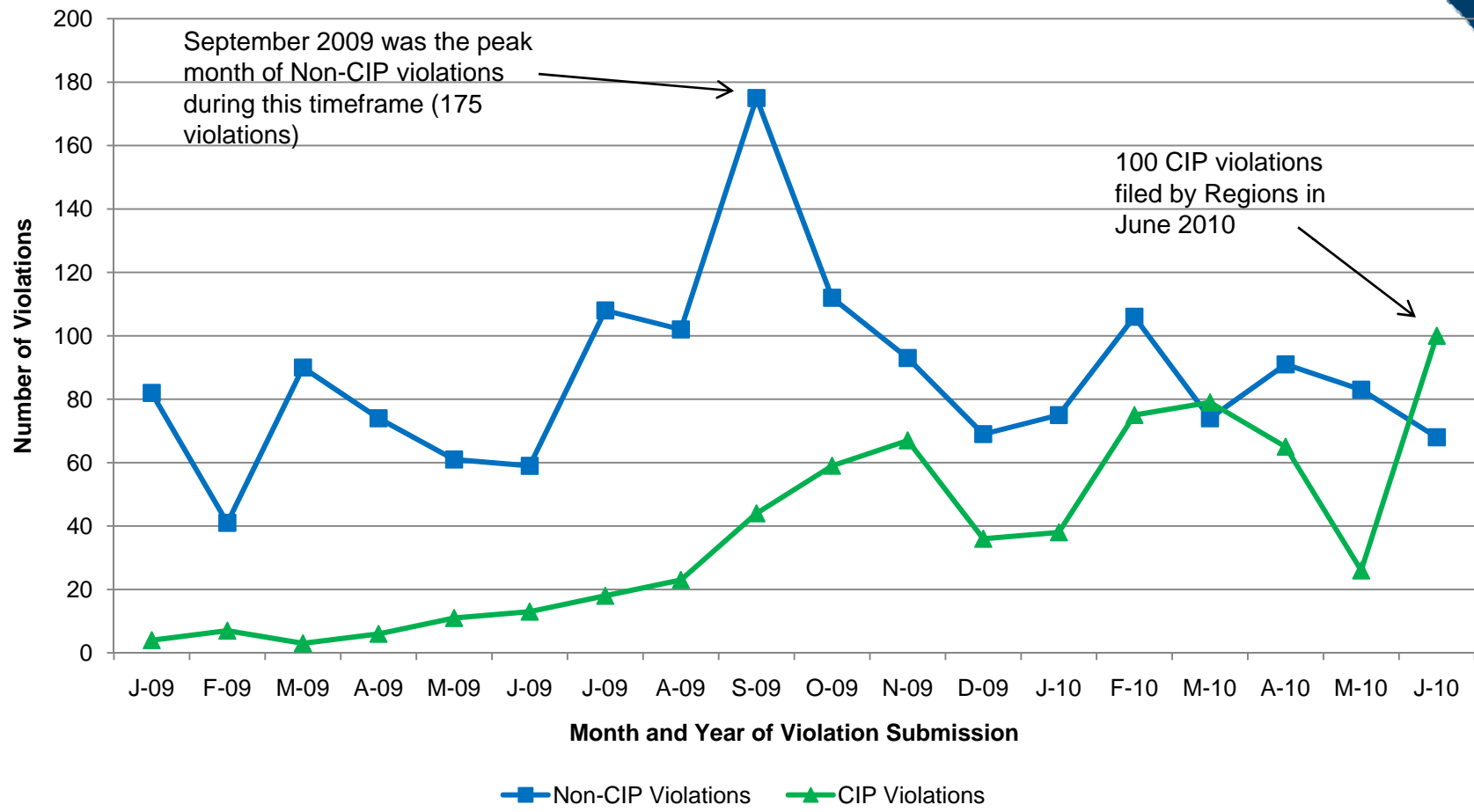
# Deem Date Trend for Active and Closed Violations



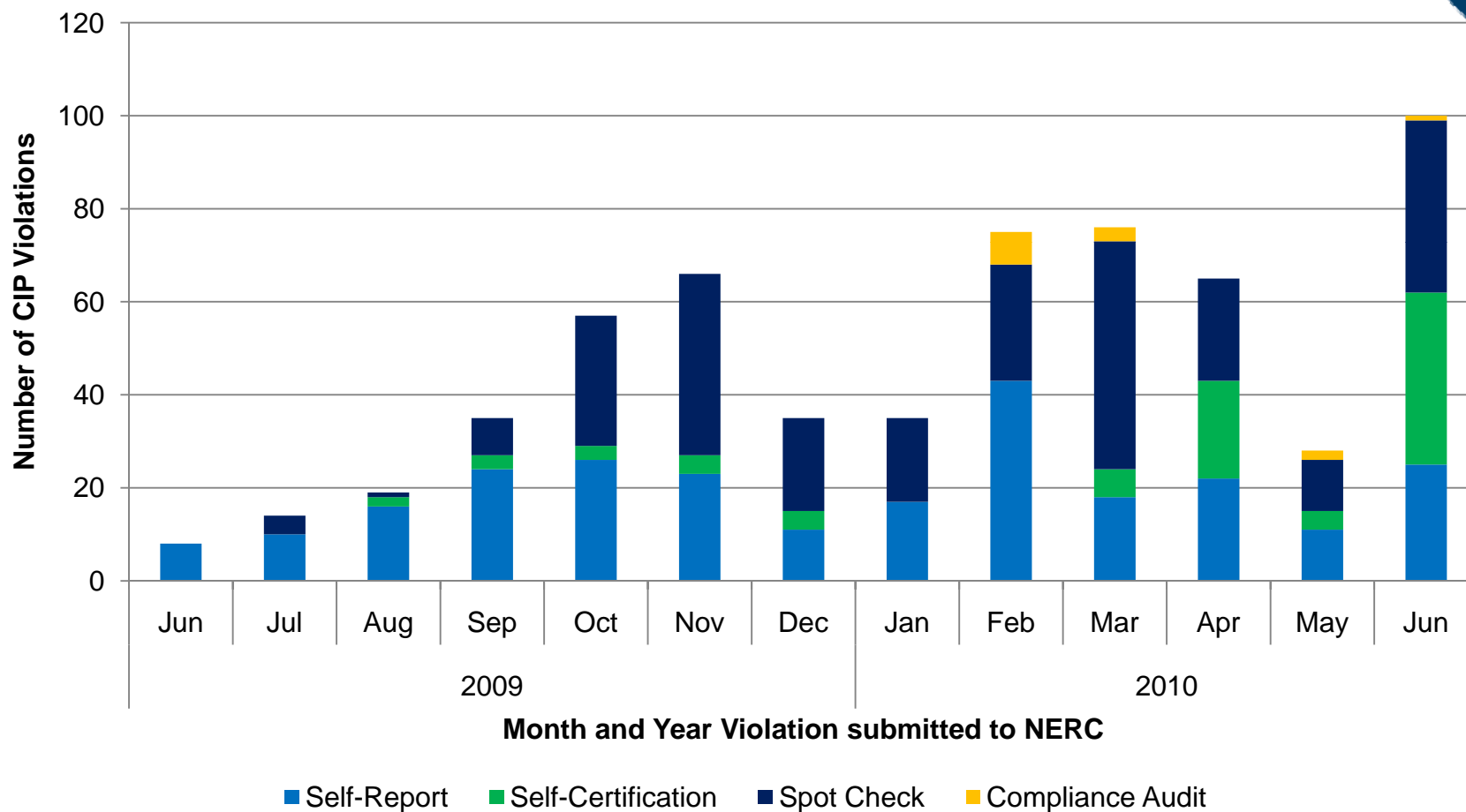
July 1, 2010

1701 out of 3354 active and closed violations have been deemed back to the partial year of 2007. The most substantial portion of the 2007 violations were deemed back to June 2007 (1207 violations out of 1701 violations)

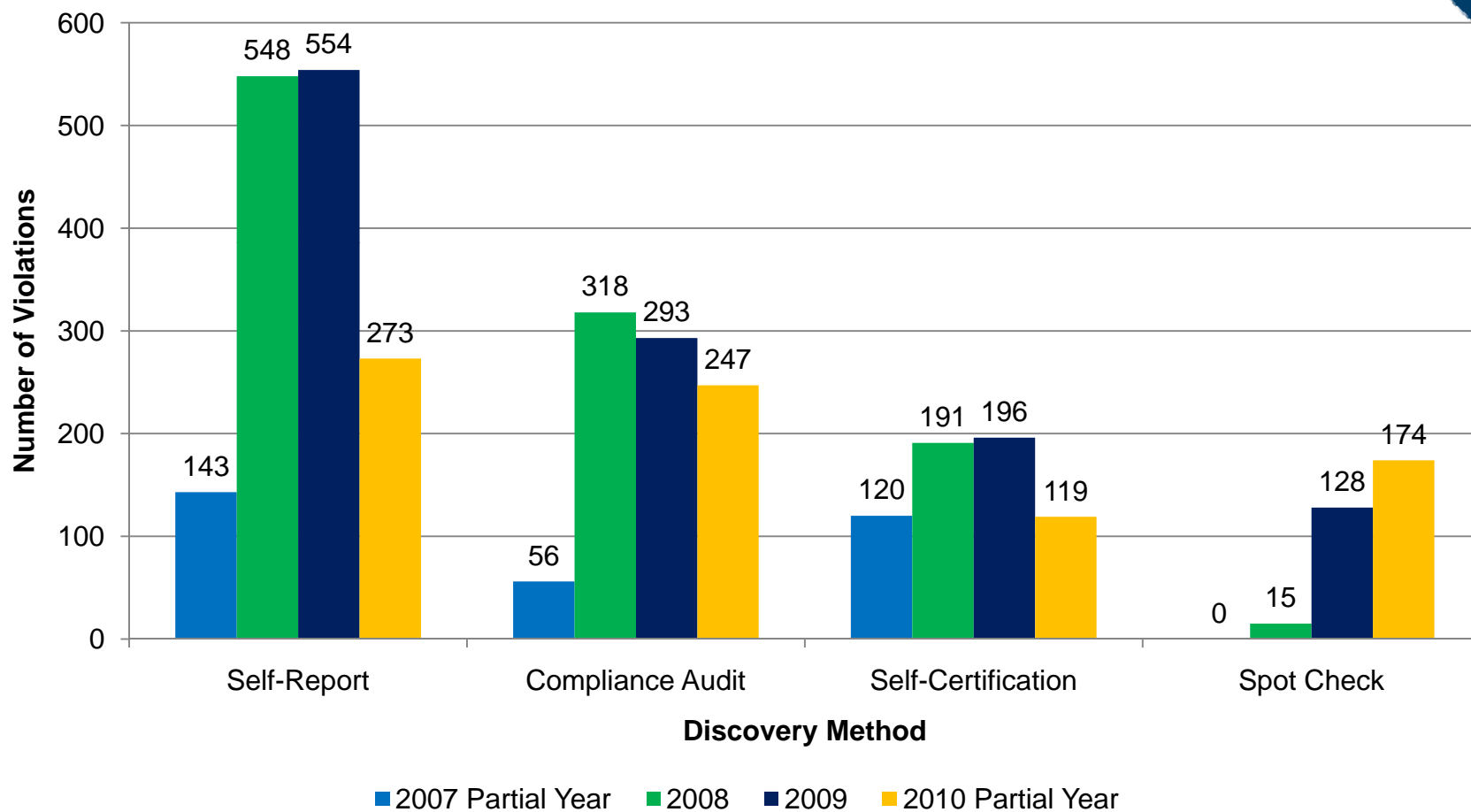
# CIP versus Non-CIP Violation Trend



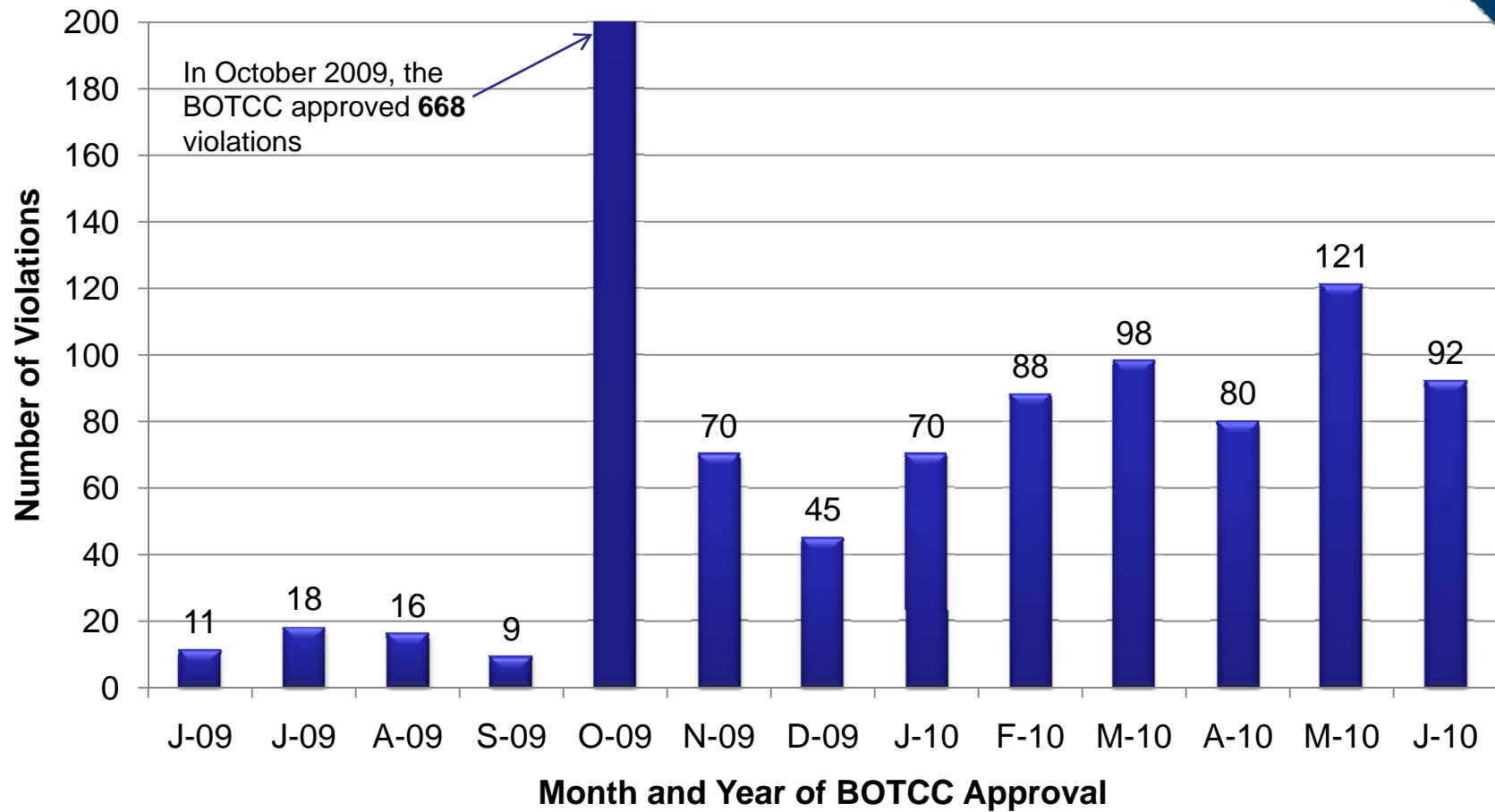
# CIP Violation Discovery Method Trend



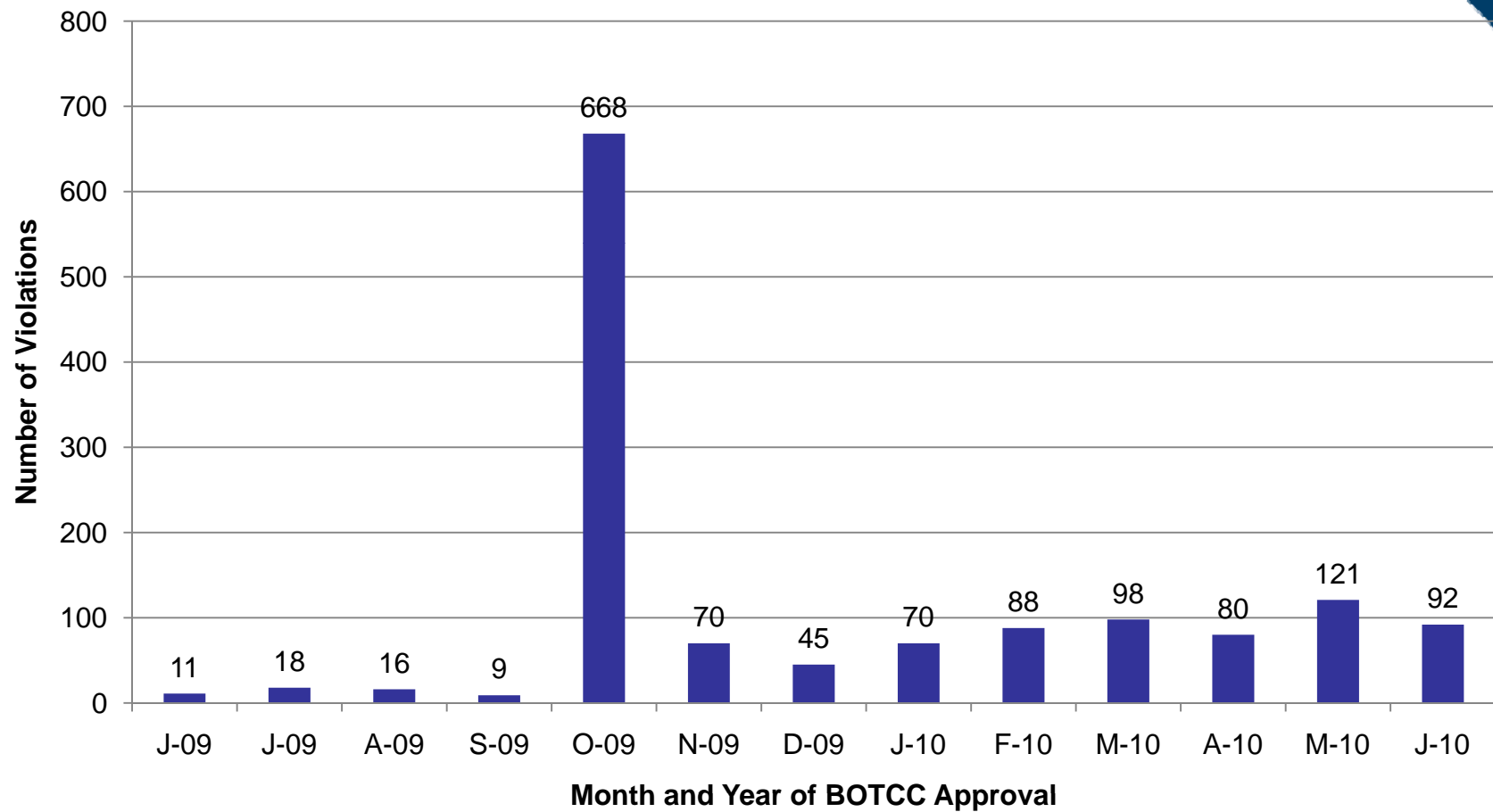
# Top 4 Discovery Methods by Year



# Violation Approval Trend of BOTCC

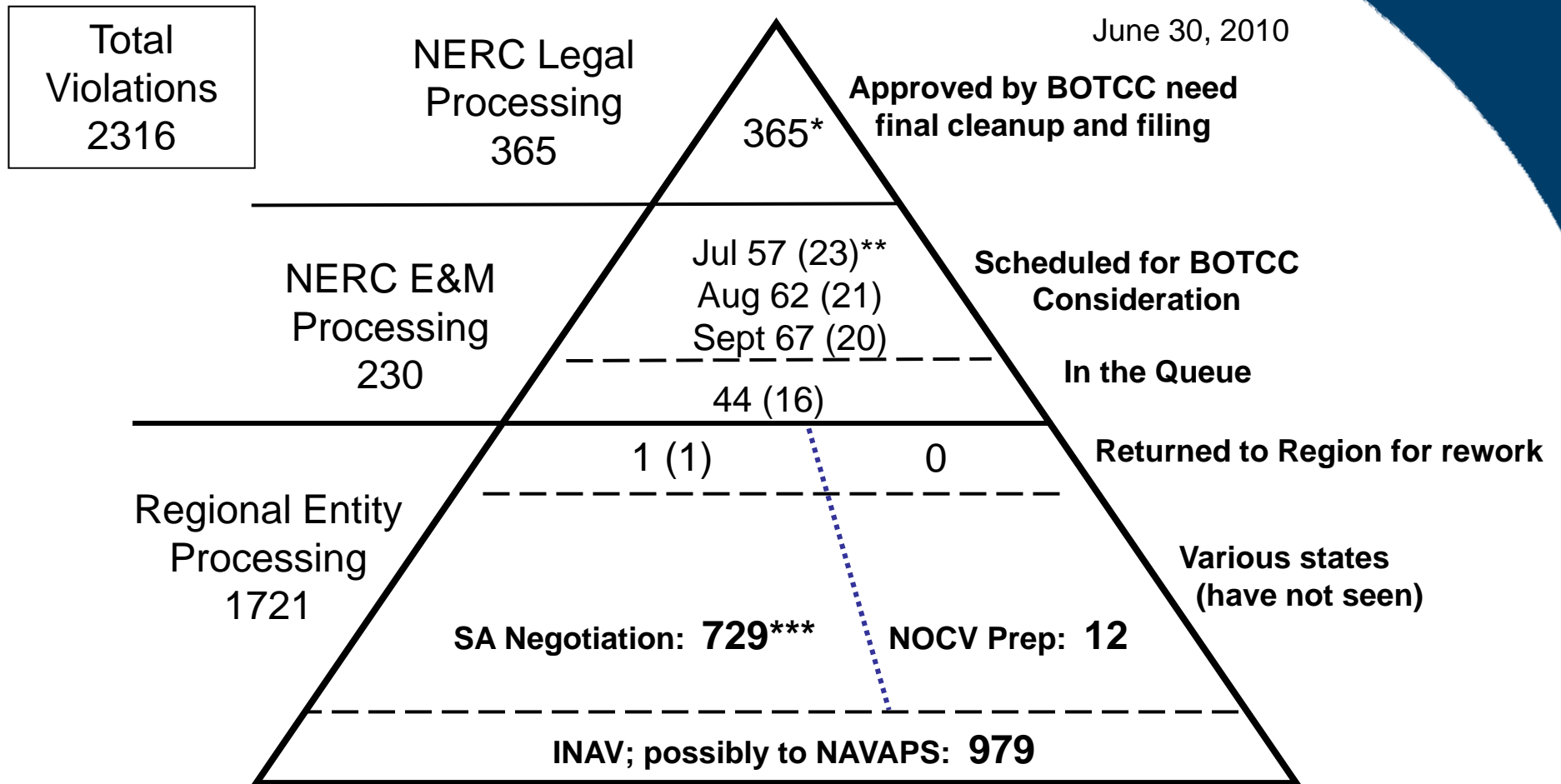


# Violation Approval Trend of BOTCC



# Improving Efficiencies

## Current Violations Processing Status



\* 62 of these violations were filed with FERC on July 6, 2010.

\*\* Number in parenthesis = number of actions (SAs & NOCVs)

\*\*\* 86 violations have been submitted to NERC in unexecuted SAs; 45 have been approved by the BOTCC and 41 are with E&M for processing. For purposes of this chart, these violations have been moved from SA Negotiations to NERC Legal Processing and NERC E&M Processing, respectively.