

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NERC Regional Entity Audit Northeast Power Coordinating Council, Inc.

Prepared by A. J. Connor
March 2010

to ensure
the reliability of the
bulk power system

116-390 Village Blvd., Princeton, NJ 08540
609.452.8060 | 609.452.9550 fax
www.nerc.com

Table of Contents

Chapter 1 – Executive Summary	3
Overview	3
Best Practices (for Consideration)	5
Chapter 2 - Background	6
Basis	6
Program Development	6
Chapter 3 – Audit Process.....	8
Compliance and Certification Committee Participation	8
Pre-Audit.....	8
Off-site Audit Process.....	8
On-site Audit Process	9
Chapter 4 – Financial and Budget Management.....	9
Background.....	10
Conclusion	10
Chapter 5 – Information Systems	11
Discussion of Review	11
Data Management, Security and Access Controls.....	11
Classification of Data.....	11
Data Transmittal.....	12
Data Backup and Recovery.....	12
Conclusion	12
Chapter 6 – Compliance Audit Validation.....	13
Discussion of Review	13
Conclusion	14
Appendix A – AUP Exceptions to the Rules of Procedures, Delegation Agreement and Other..	15
II. Data Retention and Confidentiality.....	15
V. Reporting To NERC.....	15
VIII. Compliance Activities.....	15
IX. Registered Entity Reporting	16
X. Compliance Investigations.....	16
XI. Notices of Violations	16
XII. Penalties, Sanctions, and Settlements.....	17
XIII Mitigation Plans	17
Appendix B – AUP Exceptions	18
III. Independence	18
VIII. Compliance Activities.....	18
XII. Penalties, Sanctions, and Settlements.....	18
XIII Mitigation Plans	19
Appendix C – AUP Procedures List	20

Chapter 1 – Executive Summary

Overview

In accordance with the Federal Energy Regulatory Commission’s (FERC) Order No. 672, the North American Electric Reliability Corporation (NERC) developed a program to audit the Regional Entities adherence to the Rules of Procedures (RoP), the Compliances Monitoring and Enforcement Program (CMEP) and the requirements of the Regional Delegation Agreement (RDA). This effort was pursuant to the Commission’s direction contained in Paragraph 773.¹ Additional requirements concerning the Regional Entity Audit Program attributes, including timelines, are contained in the RoP Section 402.1.3.²

Based on the NERC Board of Trustees’ (BOT) recommendation, NERC partnered with an independent auditing firm, Crowe Horwath, LLP (Crowe) to develop the procedures and perform the Regional Entity Audit Program. NERC determined an Attestation of Agreed-Upon Procedures (AUP)³ was the best vehicle for meeting its responsibility as outlined by the Commission. The Crowe endeavor was coupled with NERC staff performing areas requiring technical subject matter expertise.

NERC staff performed assessments in the following three areas: 1) information systems (Regional Entity processes for maintenance and control of data security); 2) audit validation (validation of the results of a compliance audit performed by the Regional Entity on one of its registrants); and 3) financial and budget management (a review of the Regional Entity’s financial records).

¹ See *Rules Concerning Certification of the Electric Reliability Organization; Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, FERC Stats. & Regs., ¶ 31,204 at P 773 (“Order No. 672”), *order on reh’g*, FERC Stats. & Regs. ¶ 31,212 (2006) (“Order No. 672-A”) (“We contemplate that a compliance audit of the ERO would typically involve an examination of the ERO’s ongoing compliance with statutory and regulatory criteria for certification and its performance in carrying out its responsibility to oversee the compliance with and enforcement of Reliability Standards. The Commission, however, maintains the flexibility to determine the applicable scope of a particular audit. The Final Rule eliminates the proposed periodic Commission compliance audit of each Regional Entity. Instead, we require the ERO periodically to audit each Regional Entity’s ongoing compliance with relevant statutory and regulatory criteria and performance in enforcing Reliability Standards and report the results to the Commission.”).

² See NERC Rules of Procedure at § 402.1.3 (“Regional Entity Program Audit - At least once every three years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, the delegation agreement, regional entity compliance enforcement program annual implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity.”).

³ An Attestation of an Agreed-Upon Procedure is an engagement relating to agreed-upon procedures (criteria for auditing) to specified elements or accounts. Agreed-upon procedures engagement is an engagement with an accounting firm that is hired to issue a report of findings (attestation) based on specified criteria. The user of the report, in this case NERC, agreed upon the procedures to be conducted by the accountant that NERC believes are suitable to the requirements. NERC takes responsibility for the adequacy of the procedures. In this engagement, the accountant does not express an opinion or negative assurance. Instead, the report is in the form of procedures and findings.

The audit of Northeast Power Coordinating Council's (NPCC) adherence to its delegated functions was held at the NPCC headquarters during the week of October 19, 2009, with the audit of NPCC information systems and data security being held during the week of November 9, 2009. Two observers from the FERC, representing the Office of Electric Reliability (OER) and the Office of Enforcement (OE), and a Compliance and Certification Committee (CCC) representative from JEA participated as observers for the first week of the audit.

NPCC staff was very accommodating to the needs of the audit team. NPCC provided all pre-audit information requested on or before the due date and worked diligently to provide supplemental information requested by the audit team in a timely manner.

Crowe identified seventeen exceptions to the AUP criteria, of which twelve were identified as exceptions to stated requirements. Appendix A and B of this report contain the exceptions to the AUP noted by Crowe. Appendix A includes exceptions relating to non-adherence to the ROP, RDA, or other NERC guidance or direction documents. Appendix B includes exceptions that do not necessarily constitute non-adherence to the ROP and RDA. For example, per the NERC CMEP § 3.4.1, Compliance Violations Investigation Process Steps, a Regional Entity is required to report to NERC within two business days its decision to initiate a compliance violation investigation; however, documentation of its assessment and determination to initiate the investigation is not required. The lack of documentation in this example makes it difficult for auditors to determine adherence to the requirement. From an auditing perspective, and based on the American Institute of Certified Public Accountants (AICPA) standards, it is clear an action was performed when there is documentation of the action, *i.e.*, checklist, sign-off with date specified, etc., and subsequent documentation the entity met its timeline.

During the week of October 19, two members of NERC compliance staff reviewed the conclusions reached by NPCC compliance staff in their audits of two Registered Entities. NERC identified one issue associated with the audits concerning a documented procedure not covering the full audit period. The NERC audit team could not conclude from the audit evidence provided that the Registered Entity was compliant in that one area; however, NPCC had access to additional information that did support compliance.

During the week of November 9, 2009 two members of NERC compliance staff performed an assessment of NPCC information systems and data security. The NERC compliance staff identified four items NPCC should address, and offered suggestions for improvements in those areas. The NERC staff concluded that the items identified by the audit team did not pose an immediate threat to NPCC data security.

The Chief Financial and Administrative Officer of NERC determined that the financial review performed in connection with approval of the NPCC 2010 budget was sufficient to cover this audit and no issues were noted related to NPCC funding.

Further details regarding each area assessed by NERC are contained in subsequent sections of this report. The attestation by Crowe of the AUP performed is separate and independent from this report. The exceptions to the AUP identified by Crowe are summarized in Appendices A and B.

Best Practices (for Consideration)

The NERC audit team noted an NPCC practice that could be considered as a Regional Entity best practice. A similar practice is performed in at least one other region, but it is not uniformly practiced across all regions and deserves consideration as a best practice.

Registrant Asset Identification:

NPCC maintains a document that shows the ownership of all bulk power assets in its footprint. This document facilitates the accurate identification of functions for which new and existing entities should be registered and aids in audits involving jointly-owned facilities.

Chapter 2 - Background

Basis

In accordance with Order 672 of the FERC, NERC developed a program to audit the Regional Entities' adherence to the NERC ROP and the delegation agreements. This effort was pursuant to FERC direction contained in paragraph 773.⁴ Additional requirements concerning the Regional Entity audit program attributes, including timelines, are contained in the ROP, Section 402.1.3.⁵

Program Development

NERC Compliance staff solicited proposals from four well-known, publicly recognized auditing firms. Three engagement types were provided by the auditing firms: 1) consultative; 2) management assertion and 3) attestation of the AUP. NERC executive management and compliance staff responsible for the project met on numerous occasions to discuss the options provided. An attestation of the AUP was determined the best vehicle to use for implementation of the NERC Regional Entity audit program since this type of engagement provides an audit format which is not open to subjectivity and can be consistently applied.

NERC also contracted with Crowe to develop a consulting report in the form of a management letter to identify any areas of process improvement noted during the development of the AUP (management letter to NERC) and for each subsequent Regional Entity audit (management letter for each Regional Entity).

Jacqueline Power, a NERC Senior Regional Entity Compliance Program Auditor worked with the Crowe staff, and the NERC program owners, to develop the AUP criteria. A listing of the AUP references to the ROP, RDA and other directives is captured in Appendix C.

Based on requests from the Regional Entities, NERC executive management decided to include other areas related to the Regional Entity's ERO functional requirements to the program during the first cycle of audits⁶. The decision was based on reducing the burden placed on the Regional

⁴ Order 672, ¶ 773. We contemplate that a compliance audit of the ERO would typically involve an examination of the ERO's ongoing compliance with statutory and regulatory criteria for certification and its performance in carrying out its responsibility to oversee the compliance with and enforcement of Reliability Standards. ... The Commission, however, maintains the flexibility to determine the applicable scope of a particular audit. ... The Final Rule eliminates the proposed periodic Commission compliance audit of each Regional Entity. Instead, we require the ERO periodically to audit each Regional Entity's ongoing compliance with relevant statutory and regulatory criteria and performance in enforcing Reliability Standards and report the results to the Commission.

⁵ Rules of Procedure, Section 402.1.3 - Regional Entity Program Audit - At least once every three years, NERC shall conduct an audit to evaluate how each regional entity compliance enforcement program implements the NERC Compliance Monitoring and Enforcement Program. The evaluation shall be based on these rules of procedures, the delegation agreement, approved regional entity annual compliance enforcement program implementation plans, required program attributes, and the NERC compliance program procedures. These evaluations shall be provided to the appropriate ERO governmental authorities to demonstrate the effectiveness of each regional entity.

⁶ See NERC Rules of Procedure at § 1207 ("Regional Entity Audits - Approximately every three years and more frequently if necessary for cause, NERC shall audit each regional entity to verify that the regional entity continues to comply with NERC rules of procedure and the obligations of NERC delegation agreement.").

Entities for supporting two separate audits. Regional Reliability Standards Development Program, Funding and Event Analysis were areas added to the Regional Entity Audit Program.

The Regional Entity's role in Reliability Assessments was not included in the audit activities since NERC maintains control of and plays an active role throughout this process. The NERC independent reliability assessment is based on constant communication with the eight regions to collect data, regional self-assessments, and development of reliability assessment reports. In addition, to address emerging reliability considerations, NERC obtains perspectives, data and information from the regions to fortify its Special Reliability Assessments.

Drafts of the AUP were sent to each NERC program owner to review for accuracy and to the eight Regional Entities and FERC for review and comment. This was done to promote and maintain transparency of the Regional Entity Audit Program. Based on comments received, NERC revised areas of the original audit plan, specifically associated in the areas of funding and data security.

Chapter 3 – Audit Process

Compliance and Certification Committee Participation

The Compliance and Certification Committee (CCC) is a NERC Board of Trustees appointed stakeholder committee reporting directly to the NERC Board. As part of its charter, the CCC monitors NERC compliance with the Rules of Procedure while maintaining independence of the execution of NERC programs. In meeting its obligation, a CCC member was designated to observe the RE audits to maintain oversight of NERC implementation of the program.

Pre-Audit

Prior to the audit, NERC sent NPCC three requests for information (RFI): Part 1, 2 and 3. RFI Part 1 is focused on CMEP items; RFI Part 2 on the ERO functional responsibilities; and RFI Part 3 is specific to funding and budget. NERC also provided NPCC with two corresponding Pre-Audit Questionnaires, one specific to CMEP activities and the other to ERO functional requirements under the delegation agreement.

NERC made available to NPCC each Crowe team member's work history, confidentiality agreements and conflict of interest statements. NERC also made available the CCC member's signed NERC conflict of interest and confidentiality statements and work history. These documents were provided to NPCC within the specified time frame prior to the audit.

Off-site Audit Process

The off-site week of the audit process was focused on NPCC processes and procedures and performance of AUP based on review of documentation provided. A NERC Senior Regional Compliance Auditor (Jacqueline Power) and the NERC Regional Compliance Auditor designated to lead the audit (A. J. Connor) were present to provide oversight, coordination and subject matter expertise to the Crowe staff, when required.

NERC and Crowe staff held a daily status conference call with NPCC staff on Tuesday through Friday. Items covered during these meeting included:

- Completed activities for the day, including AUP percent completion,
- Planned activities for the following day,
- Open request for information items,
- Possible exceptions to the AUP, and
- Possible management letter items

NERC provided NPCC staff the opportunity to respond to any identified items. By the end of the off-site week, the Crowe team completed the following percentages of the procedures:

AUP Number and Title	Percent Completed	Remaining Key Activities
II Data Retention & Confidentiality	85%	Waiting on Data
III Independence	60%	Waiting on Data
V. Reporting to NERC	100%	Complete with off-site procedures
VI. Registration	100%	Complete with off-site procedures
VIII Compliance	75%	Waiting on Data
IX Registrant Reporting	90%	Waiting on Data
X. Investigations	100%	Complete with off-site procedures
XI. Notices	70%	Waiting on Data
XII Penalties, Sanctions & Settlements	35%	Waiting on Data
XIII. Mitigation Plans	15%	Waiting on Data
XVI. ERO	75%	Waiting on Data

On-site Audit Process

The team arrived at the NPCC offices at 8:00 am, Monday, October 19. NPCC introduced its staff to the NERC audit team and provided an overview of NPCC including its committee structure, organization chart, relationship with Canadian members, and key facts about the organization.

NERC introduced its audit team members and provided an overview of the NERC Regional Entity audit process to NPCC staff. Topics included in the overview presentation were:

- Scope of the audit,
- Regional Entity audit regulatory references,
- Roles and responsibilities of the NERC team members and observers, and
- Deliverables and timelines

During the on-site audit, Crowe and NERC staff held interviews with key NPCC personnel to validate evidence presented. FERC and CCC representatives were in attendance for many of the interviews.

At approximately 3:30 p.m. Monday through Thursday, Crowe staff and the NERC audit team provided status updates for NPCC personnel. Items discussed were the same as previously mentioned for the Off-Site Audit process, with the addition of status reports on the verification of the selected NPCC registered entity audits by NERC staff. NPCC took the opportunity to discuss noted items, supply additional information for clarification, and confirm plans for the following day.

The audit team delivered the exit briefing on Friday, October 23, 2009. Crowe staff discussed noted possible exceptions to the AUP and management letter items. NERC staff provided a status update on the validation of the selected NPCC audits. NERC indicated NPCC needed to provide responses to open data requests by close of business Wednesday, October 28th, except for responses relevant to the Information Systems AUP to be audited the week of November 9th. NERC also discussed the results of the audit validations and provided the timeline for development of the audit reports and the review of drafts by NPCC and NERC. After completion of the On-Site Audit process, several AUP items needed further review by Crowe prior to finalization. This was completed, and Crowe delivered draft reports to NERC on November 13, 2009.

Chapter 4 – Financial and Budget Management

Background

Pursuant to the “Funding”⁷ Section 8 of the NPCC Regional Delegation Agreement, NERC has the obligation to perform a review of NPCC financial records, at a minimum of every three years. NERC developed audit criteria in the form of agreed upon procedures with Crowe based on the requirements outlined in the delegation agreement. The majority of criteria developed included items which an independent financial auditing firm should include in its annual review of Regional Entity financial records. NPCC provided NERC copies of various requested documents to assert to NERC that all items necessary for adherence to Section 8 were met and to provide assurance concerning financial and budget items presented to the NERC Board of Trustees.

Conclusion

A financial review was undertaken by NERC in connection with the recent approval by NERC of the NPCC 2010 budget. The 2010 budget review included a review of the most recent audited and unaudited financial statements of NPCC and their most recent outside audit report. NERC determined that the results of that review were satisfactory to determine that NPCC has complied with its obligations as required by Section 8 of the delegation agreement and to fulfill the requirement for this review.

⁷ See the Executed “Amended and Restated Delegation Agreement between North American Electric Reliability Corporation and Northeast Power Coordinating Council” at, §8(j) (“NERC shall have the right to review from time to time, in reasonable intervals but no less than every three years, the financial records of NPCC in order to ensure that the documentation fairly represents in all material respects appropriate funding under this Agreement.”)

Chapter 5 – Information Systems

Discussion of Review

Pursuant to requirements outlined in RoP 402.3⁸, NERC staff in conjunction with Crowe staff developed criteria for assessing the regional entities process for maintenance of data security, confidentiality and integrity.

NERC staff performed an assessment of NPCC processes for maintenance and control of its data security. This audit took place at NPCC offices in New York City from November 9, 2009 through November 11, 2009 and was performed by a NERC Senior Regional Entity Compliance Program Auditor, Ralph Anderson, and a Regional Compliance Auditor, A. J. Connor. Due to the sensitive nature of the information reviewed, this report contains only a summary of key areas evaluated. A more detailed report is being provided to NPCC management under a separate letter.

The on-site audit of Information System Procedures addressed eight areas: Data Management, Data Classification, Data Transmittal, Data Security and Access Controls, Data Security for Contractors, Data Back-up and Recovery, Off-site Data Storage, and Data Security and Monitoring.

The audit team reviewed NPCC information system procedures which address electronic and hard copy data supplied to NPCC from its registered entities and internally created documents. The audit team identified four areas of improvement and made recommendations to NPCC management during the exit presentation. The following is a general description of performance of the audit and the findings.

Data Management, Security and Access Controls

The audit team conducted interviews with NPCC staff members to address the classification and treatment of the different types of data. NPCC management grants access for both electronic and physical data based on personnel assignments within the organization. The audit team validated the controls by performing tests to ensure unauthorized persons could not access the data and certain secure areas. In addition, the audit team performed spot checks of staff computers and verified adherence to NPCC procedures. The audit team also verified NPCC followed its policy for removing access within the time specified for employees who no longer work for the organization. The audit team identified an issue regarding control of access to secure information systems and recommended a change in NPCC procedures.

Classification of Data

NPCC provided documentation to describe its data classification procedure and treatment of sensitive data, including guidance to its staff on marking of physical and electronic data to reflect sensitivity levels. The audit team selected several samples to verify consistent use of the classification and protection of confidential materials. The audit identified one public document that was not marked to indicate confidential information had been redacted.

⁸ See Rules of Procedure at § 402.3 (“Information Collection and Reporting — (“NERC and the regional entities shall implement data management procedures that address data reporting requirements, data integrity, data retention, data security, and data confidentiality.”).

The audit team recommended NPCC review similar documents to ensure the language was consistently being added.

Data Transmittal

NPCC provided procedures for transmitting and storing compliance data, including the use of encryption, passwords, and other security measures. The audit team performed interviews and spot checks of staff to validate that the NPCC procedures were practiced. The audit team identified a security area that should be improved and recommended NPCC investigate potential solutions available in the industry, and select one to improve the security measures.

Data Backup and Recovery

NPCC maintains data backup at a secure offsite location. Backup is performed routinely and moved to the backup data storage area in a secure manner. NPCC also has a failover site that is a collocation managed by a contractor. NPCC provided the audit team copies of the contracts with its delivery service and for the failover site. The audit team identified an issue concerning the use of standardized language for the confidentiality clause in the NPCC contracts and recommended NPCC update the contracts.

Conclusion

The audit team found that NPCC takes the security of its information seriously and has recently formalized longstanding practices into a thorough set of procedures to provide the necessary protection. The issues identified by the audit team did not pose an immediate threat to the security of data retained or transmitted by NPCC.

Chapter 6 – Compliance Audit Validation

Discussion of Review

Pursuant of the Rules of Procedure 402.1.3.2⁹, NERC, in maintaining its oversight of the Regional Entity compliance monitoring and enforcement program, is obligated to verify the findings of previous compliance audits conducted by the Regional Entity. To meet this obligation, NERC evaluated the results of two compliance audits performed by NPCC. One of the audits evaluated was a NPCC on-site audit of an entity registered as a TO, TP, TOP, and TSP. The other audit evaluated was a NPCC off-site audit of an entity registered as a DP, GO, GOP, and LSE.

The NERC audit team performing the evaluations included two Regional Compliance Auditors, A. J. Connor and Craig Struck. The audit team reviewed the documentation supplied by the registered entities to NPCC as evidence of compliance, and performed a detailed review of the evidence. Interviews were held with the NPCC audit team leaders for the two audits to discuss the evidence provided and the conclusions reached in the NPCC audits.

Thirty two reliability standards, including two hundred fifty three requirements, were applicable to the entity audited on-site by NPCC. The NERC audit team reviewed the evidence provided for each requirement. The audit team was unable to confirm NPCC conclusions based on the evidence provided for one standard (TOP-002-1, R18) related to the use of uniform transmission line identifiers for interconnections with neighboring bulk power systems. NPCC staff concluded that this was covered by common operating instructions between the neighboring utilities. The common operating instructions were not included in the evidence provided, and transmission line diagrams in evidence did not provide conclusive evidence to support the conclusion by NPCC that the audited entity was in compliance with the standard.

Twenty two standards, including fifty three requirements, were applicable to the compliance audit of the entity audited off-site by NPCC. The NERC audit team reviewed the evidence provided for each requirement. The audit team agreed with the conclusions of the NPCC audit. For one standard, the requirement (PRC-008-0, R1) states: “The Transmission Owner and Distribution Provider with a UFLS program (as required by its Regional Reliability Organization) shall have a UFLS equipment maintenance and testing program in place. This UFLS equipment maintenance and testing program shall include UFLS equipment identification, the schedule for UFLS equipment testing, and the schedule for UFLS equipment maintenance.” The NERC audit team concluded the audited entity’s current procedure in evidence met the requirement, but the procedure was dated June 3, 2008 and contained no record of revision or history to verify what procedure was in effect for the audit period prior to that date. NPCC staff identified maintenance records to verify that an adequate process was in place throughout the audit period. The NERC audit team accepted that evidence as adequate to support the conclusion reached in the NPCC audit.

⁹ See Rules of Procedure at § 402.1.3.2 (“NERC shall establish a program to audit bulk power system owners, operators, and users operating within a regional entity to verify the findings of previous compliance audits conducted by the regional entity to evaluate how well the regional entity compliance enforcement program is meeting its delegated authority and responsibilities”).

Conclusion

The NERC audit team was unable to confirm the audit conclusions reached by NPCC for one reliability standard based on the evidence provided. The audit team did not conclude that the registered entity was in violation of a standard, but the evidence available for review did not fully support compliance.

Appendix A - AUP Exceptions to the Rules of Procedures, Delegation Agreement and Other

Note: These exceptions were extracted from the Crowe Horwath, LLP Report. The notes in italic were added by NERC for clarification.

II. Data Retention and Confidentiality

See Crowe report at § II.B.9.a:

“Crowe was unable to obtain information showing that NPCC provided copies of the audit team members' confidentiality or non-disclosure agreements for four of the samples reviewed. Crowe later noted the following information, as provided by NPCC: Prior to July 2009 this information was provided in hard copy to the registered entity on the first day of fieldwork. After July 2009, NPCC changed the process and now scans the auditor Code of Conduct/Acknowledgements and sends to the entity prior to the audit.” *(ref. CMEP 3.1.5)*

V. Reporting To NERC

See Crowe report at § V.D.8.c.i.a:

“For six (6) out of twelve (12) Mitigation Plans sampled, NPCC's notification of Accepted Mitigation Plans to NERC was after five (5) business days (CMEP 6.5). For four of these plans, NPCC stated that their policy had been to not upload mitigation plans while in settlement discussions. The current practice is to submit within the five (5) day requirement.”

See Crowe report at § V.D.8.e:

“Exception noted. In one (1) of twelve (12) Mitigation Plans sampled, NPCC could not provide transmittal documentation to show that it had notified NERC of the Mitigation Plan after it was determined it was completed by NPCC.” *(ref. CMEP 6.6)*

VIII. Compliance Activities

See Crowe report at § VIII.A.4.e.ii.a)i & VIII.A.4.e.iii.a)i:

“For two (2) of the five (5) audit samples, notification of audit team members did not occur within two months of the scheduled audit. Crowe later noted the following information, as provided by NPCC: Prior to 2009, it was NPCC's practice to wait until NERC and FERC representation was finalized before notifying the Registered Entity of the audit team members.” *Refers to requirement for the Regional Entity to notify the registered entity of the audit team members at least two months prior to the audit. (ref. CMEP 3.1.1)*

See Crowe report at § VIII.B.1.a.iii.b):

“The RE does not offer the chance for registered entities to comment on the draft assessment. Crowe later noted that while the samples did not include Spot Checks that involved Alleged Violations, the CMEP calls for a review with the Registered Entity.” *Refers to review of draft assessment of standards in a spot check. (ref. CMEP 3.3.1)*

IX. Registered Entity Reporting

See Crowe report at § IX.A.3.e:

“Crowe noted that for all ten items in the sample, there was no documentation of the review of the self-certification forms received by NPCC. Crowe later noted that while the samples did not include Self Certifications that involved Violations, the CMEP calls for a review by NPCC and no records are available to indicate that occurred.” (ref. CMEP 3.2.2)

See Crowe report at § IX.C.3.a.vi:

“The Periodic Data Submittal was obtained, however draft assessment of compliance documentation was not obtained. Crowe later noted that while NPCC states that they use an automated check for Periodic Data Submittals that involve non-compliance, no records are available to indicate that NPCC reviewed the results or reviewed it with the Registered Entity” *Refers to the Regional Entity’s draft assessment of compliance or non-compliance based on Periodic Data Submittals received.* (ref. CMEP 3.6.1)

See Crowe report at § IX.C.3.a.vii:

“Periodic Data Submittals were obtained; however final assessments, which normally include documentation itemizing applicable reliability standards, were not obtained. Crowe later noted that while NPCC states that they use an automated check for Periodic Data Submittals that involve non-compliance, no records are available to indicate that NPCC reviewed the results or reviewed it with the Registered Entity as part of the final assessment. *Refers to the Regional Entity’s final assessment of compliance or non-compliance based on Periodic Data Submittals received.* (ref. CMEP 3.6.1)

X. Compliance Investigations

See Crowe report at § X.A.2.f.i.a).ii:

“Regarding the first sample, NPCC gave the registered entities 14 days to respond to the fourth request for information. The registered entities were given more than 20 days to respond to the other 3 requests for information. Regarding the second sample, one request gave the registered entity 14 days to respond, and another gave the registered entity 15 days to respond.” *Refers to the Regional Entity providing at least 20 days to respond to information requests.* (ref. CMEP 3.4.1)

XI. Notices of Violations

See Crowe report at § XI.A:

“For two (2) of the fourteen (14) potential standards violations, NPCC stated they moved to settlement, but did not have documentation to support this. According to NPCC enforcement officials, verbal agreements were made with the registered entities to include these violations in settlement agreements that were already underway, but these decisions were not documented.” (ref. CMEP 5.1)

XII. Penalties, Sanctions, and Settlements

See Crowe report at § XII.C.2.a.i:

“For four (4) of the five (5) settlement agreements sampled, Crowe noted that there was no documentation from the registered entity stating who would be the authorized negotiator throughout the settlement process.” (*ref. CMEP 5.4*)

XIII Mitigation Plans

See Crowe report at § XIII.B.5:

“One (1) of twelve (12) Mitigation Plans sampled did not have Mitigation Closure Form (Certification of Completed Mitigation Plan). Per CMEP 6.6 - "Upon completion of the Mitigation Plan, the Registered Entity shall provide to the Compliance Enforcement Authority certification, signed by an officer, employee, attorney or other authorized representative of the Registered Entity, that all required actions described in the Mitigation Plan have been completed and shall include data or information sufficient for the Compliance Enforcement Authority to verify completion."

Appendix B-AUP Exceptions

Note: The exceptions listed in Appendix B are extracted from the Crowe Horwath, LLP Report. The notes in *italics* were added by NERC for clarification.

III. Independence

See Crowe report at § III.A.4.a.iv.a) & III.A.4.a.vii:

“This is not mentioned in the internal COI policy documents.” Refers to policy documenting the review of conflict of interest statements submitted by Board members, executives, and staff, and the monitoring and enforcement of internal independence and conflict of interest. NPCC supplied copies of COI forms submitted by Board members, but NPCC policy does not address the documentation of reviews or the monitoring and enforcement of independence and conflict of interest.

See Crowe report at § III.A.4.a.vi:

“This is not mentioned in the internal COI policy documents.” Refers to NPCC preventing any two industry sectors controlling any decision or any single segment vetoing any matter related to compliance. This exception will not be counted as an exception by NERC. Crowe’s assessment of the procedure statement in the AUP was correct, but the procedure inaccurately referenced the COI policy. The AUP will be revised to eliminate confusion concerning this audit procedure.

VIII. Compliance Activities

See Crowe report at § VIII.A.4.i.ii. & VIII.A.4.n.i:

“For three of the five audits in our sample, not all RSAW steps were marked as complete. In one audit, seven (7) of ten (10) RSAWs were not all marked complete; in one audit, two (2) of ten (10) RSAWs were not all marked complete; and in one audit, two (2) of ten (10) RSAWs were not all marked as complete.”

“For two of the five audits in our sample, not all RSAWs contained a statement of compliance with the standards. In one audit, five (5) of ten (10) RSAWs did not contain a compliance statement and in one audit, one (1) of ten (10) RSAWs did not contain a compliance statement.”

“For 2 of the 5 samples, there was no documentation (emails etc.) that included the date on which the final audit reports were sent to Registered Entity.

XII. Penalties, Sanctions, and Settlements

See Crowe report at § XII.C.2.a.ii:

“For four (4) of the five (5) settlements sampled, Crowe noted that there is no documented review to determine whether the proposed settlement agreement would compromise the Bulk Power System or cause the violation of a reliability standard. Per discussion with the Manager of Compliance Enforcement, he reviews all of the documentation available before allowing a settlement to occur to determine if a settlement will be beneficial or enhance the Bulk Power System. However, there was no documentation to show that this review actually occurred.”

See Crowe report at § XII.C.2.a.iv.h):

“For four (4) of the five (5) Settlement Agreements sampled, Crowe noted that there was no description of the impact of the violation on the bulk power system, or a Reference to a NAVAPS or Notice of Penalty within the settlement agreement. Per discussion with the Manager of Compliance Enforcement, he noted that they were directed to take certain information out of the settlement agreements by NERC. Per discussion with NERC, they stated that they only instructed NPCC to remove the information regarding the Violation Severity Level and what the penalty would have been if there was not a settlement. They did not tell NPCC to remove the information with regard to the impact to the Bulk Power System. Crowe received the original copy of the settlement agreements and noted that the description of the impact to the bulk power system had been included.”

XIII Mitigation Plans

See Crowe report at § XIII.A.4.a.

In multiple mitigation plans examined in the audit sample, documentation was not available to show NPCC had made a determination regarding whether the plan:

- addressed the applicable standards,
 - contained proper NERC identification,
 - identified the Registered Entity contact,
 - identified the original violations,
 - adequately provided a rationale for acceptance,
 - contained a plan schedule,
 - contained appropriate approvals by Registered Entity management,
 - would alleviate the violation or mitigate reoccurrence of similar violations,
 - showed key action dates for the plan are reasonable and addressed the urgency needed,
 - could be adequately monitored for progress, and
 - addressed mitigation of impact on the BES while being implemented.
- (see the Crowe AUP Report for additional details)

Appendix C -AUP Procedures List

- I. Implementation plan
 - (Section 4 CMEP, ROP 403.8, ROP 403.9, & ROP 403.21)
- II. Data Retention and Confidentiality
 - (Section 9 CMEP, ROP 402.8, ROP 403.6.4, ROP 403.7.4, ROP 403.14, ROP 403.16, ROP 408.3.1, ROP 502.2.1, & ROP 502.2.2)
- III. Independence [Organizational Independence and Conflict of Interest]
 - (ROP 402.8, ROP 403.1, ROP 403.6.1, ROP 403.6.2, ROP 403.6.3, ROP 403.6.5, ROP 403.7.1, ROP 403.7.2, & ROP 403.7.3)
- IV. Information Systems
 - (ROP 402.3)
- V. Reporting to NERC
 - (Section 8 CMEP, ROP 401.3, ROP 403.10 , ROP 403.15, ROP 403.19, ROP 403.20, ROP 403.21.1, ROP 408.1, ROP 408.4, ROP 410.3, ROP 502.1.4, ROP 502.1.5, ROP 503.3.3.3, ROP 503.3.3.4, ROP 504.2, ROP 507.4, ROP 507.6, & throughout the CMEP sections)
- VI. Registration
 - (Section 2 CMEP, ROP 500, Appendix 5)
- VII. Certification
 - (Section 2 CMEP, ROP 500, Appendix 5)
- VIII. Compliance (Audits and Spot Checks)
 - (Section 3.1 CMEP, ROP 403.7.5, & ROP 403.11; Section 3.3 CMEP, & ROP 403.10.6)
- IX. Registered Entity Reporting (Self-Certifications, Exception Reporting, Self-Reporting, Periodic Data Submittals)
 - (Section 3.2 CMEP, Section 3.7 CMEP, Section 3.5 CMEP, Section 3.6)
- X. Investigations (Compliance Violation Investigations, Complaints)
 - Section 3.4 CMEP, & ROP 403.13, (Section 3.8 CMEP)
- XI. Notices (Possible, Alleged and Notices of Confirmed or Dismissals)
 - (Section 5.1 CMEP)
- XII. Penalties and Sanctions
 - (ROP 403.17, ROP 407.2, & Appendix 4B)
- XIII. Mitigation plans
 - (ROP 403.18, & Section 6 CMEP)
- XIV. Remedial actions
 - (Section 7 CMEP)
- XV. Hearings
 - (ROP 403.4, ROP 403.20, & ROP 407.3)
- XVI. ERO Functional Requirements (Delegation Agreements
 - a. Finance and Budget Management
 - b. Event Analysis
 - c. Regional Reliability Standards Development Program