

Questions

1.0 INTERPRETATION

1.1.12 Compliance Registry of NERC Registered Entities

a) Where is the *NERC Statement of Compliance Registry*? Please indicate the source. Is this registry available in French?

b) What do the words “except for Québec” on the fourth line of this article refer to?

2.0 LIST OF ORGANIZATIONS RESPONSIBLE FOR COMPLYING WITH RELIABILITY STANDARDS

Will the standards adopted in French by the Régie for each entity and the Compliance Registry of Registered Entities be posted on the NPCC website?

3.0 COMPLIANCE MONITORING PROCESSES

a) The French version of the article refers to the “guide des sanctions” in lower case (second line of the second paragraph). Is this the Québec *Sanction Guide* described in article 1.1.12 or another document? If the latter, what document?

b) Does the use of the word “may” in the third paragraph mean that NPCC may, under certain circumstances, make a recommendation to the Régie without a review of the facts and without requesting the participation of the entity against which the violation has been alleged?

3.1.1 Compliance Audit Process Steps

a) Is the Annual Audit Plan referred to in the first bullet (first line) subject to approval by the Régie or only the audit schedules (last line)?

b) The fourth bullet states that the audit team provides for a “review of the audit report” with the Registered Entity and “issues an audit report, including an assessment of compliance with the Reliability Standards” to NPCC. Is the Registered Entity entitled to the same information on the finding as NPCC at this stage? If not, why?

3.1.2 NPCC Annual Audit Plan and Schedule

The first paragraph stipulates:

NPCC shall develop an Annual Audit Plan and include it in the Québec's NPCC Implementation Plan submitted to NERC for review. NPCC provides the Annual Audit Plans to the Régie for approval.

a) Is the Régie's approval required only for NPCC's Annual Audit Plans and not its annual action plan for Québec? If yes, why?

b) Is NPCC's action plan for Québec subject to approval by NERC or the Régie?

3.1.5 Conduct of Compliance Audits

a) How does the Régie maintain its independence and institutional impartiality if it participates in a compliance audit of a Registered Entity with NPCC?

b) If a Régie staff member does participate in an audit, will this staff member be subject to all the conditions stipulated in this article, including rules of confidentiality and auditor training?

c) In the last paragraph, if a Registered Entity objects to a member of the audit team, why is the Régie not the final arbiter on such matters related to the independence and impartiality of the audit process?

3.1.6 Compliance Audit Reports

Are all NPCC decisions, including the decision to release an audit report, subject to the Régie complaint process?

3.3 Spot Checks

What is the difference between a spot check (article 3.3) and an investigation (article 3.4)?

3.4 Investigations of Reliability Standard Violations

a) If the Régie assumes the leadership of a Compliance Violation Investigation, what rules of procedure will apply?

b) Can NPCC undertake an investigation on its own initiative, or only at the request of the Régie?

c) The last sentence states that “Confirmed Violations resulting from a Compliance Violation Investigation will be made public.” Is this public release subject to a decision by the Régie pursuant to subsection 85.10 of the Act? Refer to the third paragraph of article 3.1.6.

3.4.1 Compliance Violation Investigation Process Steps

a) Regarding the third bullet, why is the Régie not the final arbiter on such matters related to the independence and impartiality of the audit process, for which it is responsible?

b) Regarding the fourth bullet, does NPCC, as a foreign agency, have jurisdiction to conduct an on-site investigation in Canada? Pursuant to what legislation?

c) Is a hearing of this type held by NPCC in Québec subject to the Régie’s or the Québec courts’ supervision? Pursuant to what legislation?

5.0 ENFORCEMENT ACTIONS

The first paragraph provides, in part:

NPCC shall determine (i) whether there have been violations of Reliability Standards by Registered Entities within Québec, and (ii) if so, the appropriate Remedial Actions, and penalties and sanctions, as prescribed in the Sanction Guide. NPCC will then give its recommendation to the Régie for enforcement.

a) Is this determination of the violation by NPCC consistent with the functions assigned to a mandated body pursuant to subsection 85.9 of the Act, namely investigating and reporting, and the functions assigned to the Régie pursuant to subsection 85.10 of the Act, namely determining a violation and imposing a sanction?

The first paragraph also provides, in part:

NPCC and NERC will work to achieve consistency in the application of the Sanction Guide by NPCC. NERC will review sanctions in light of the Sanction Guide prior to NPCC forwarding its recommendations to the Régie.

b) How will NPCC and NERC achieve consistency in the sanctions they recommend for Québec entities in accordance with the Québec *Sanction Guide*?¹

c) Will NPCC and NERC use sanctions imposed in other jurisdictions in the United States and the rest of Canada as precedents, or only sanctions imposed in Québec?

d) In the second paragraph, will the NERC compliance officer's determination concerning the required information, which will be sent to the Régie, be subject to appeal before the Régie? If not, why not?

5.1 Notification to Registered Entity of Alleged Violation

What are the Reliability Coordinator's obligations, particularly with respect to confidentiality, after receiving notification from NPCC?

5.2 Registered Entity Response

How is the notice from NPCC delivered to the Registered Entity? How is the 30-day deadline calculated? (From date sent, date received, date deemed received? What about non-business days and holidays, etc.?)

5.3 NPCC Hearing Process for Compliance Hearings

The first two sentences of the first paragraph state:

NPCC shall establish and maintain a Hearing Body with authority to render decisions in compliance hearings in which a Registered Entity may contest a finding of Alleged Violation, proposed penalty or sanction or Remedial Action, or a proposed Mitigation Plan, before a recommendation is made to the Régie. The NPCC Compliance Committee (CC) shall serve in the role as the NPCC Hearing Body. [emphasis added]

a) Is this "authority to render decisions" on the part of the Hearing Body created by NPCC consistent with the functions assigned to a mandated body pursuant to subsections 85.9 and 85.10 of the Act, namely investigating and reporting?

b) Does the Hearing Body hear appeals of decisions (or recommendations) by the NPCC Compliance Committee? If so, pursuant to what legislation?

c) In the second paragraph, do the words "agissant comme animateur," applied to the independent consultant's role in conducting a hearing, properly describe that role? Also, these terms do not seem to appear in the English version of the QCMEP. If the two versions do not agree, is one version official, taking precedence over the other?

d) The second sentence states: "The NPCC Hearing Body will not be present at the actual hearing but will have access to the complete record of that hearing before it makes its final decision." Is this procedure consistent with the rules of natural justice under Canadian law ("he who hears must decide")?

5.5 NERC Appeal Process

Shouldn't the NPCC Hearing Body's "decision" be subject to appeal before the Régie rather than NERC?

¹

See QROP paragraph 2.7.1.

7.0 REMEDIAL ACTION ORDERS

- a) In the third paragraph, what is the role of the “Contrôle des mouvements” department? What force does a directive issued by the Reliability Coordinator have? What is the hierarchy of directives?
- b) In the fourth paragraph, how was the short deadline of two business days established?
- c) The fourth paragraph provides that NPCC may hold a hearing on a challenge to a recommended Remedial Action. What statutory provision authorizes such a hearing? Under subsection 85.10 of the Act, the Régie has exclusive jurisdiction to impose sanctions and conditions (including, presumably, remedial action).

8.0 REPORTING AND DISCLOSURE

- a) This article mentions several reports. Which are confidential?

The fourth paragraph states:

NERC will publicly post each report of a Confirmed Violation, together with any statement submitted by the Registered Entity, no sooner than five (5) business days after the report is provided by NPCC to the Régie and NERC and the Registered Entity.

- b) Is this posting subject to the Régie’s decision pursuant to subsection 85.10 of the Act? Refer to the third paragraph of article 3.1.6.

9.1 Records Management

Will the NPCC records required for QCMEP implementation be stored solely in Québec at all times?

9.3.1 Confidentiality and Critical Energy Infrastructure Information

Do the terms (1) “confidential information,” (2) “confidential business and market information,” (3) “Critical Energy Infrastructure Information,” and (4) “Critical Infrastructure,” defined in Section 1501 of the NERC Rules of Procedure, have equivalents in Québec regulations?