

To whom this may concern,

The Midwest Reliability Organization NERC Standards Review Forum would like to submit the following comment.

NERC CAN-0008, PRC-005-1, R2 – Pre June 18, 2007 Evidence

Targeted Functional Registrations: TO, GO, DP

Standards: PRC-005-1, R7

Background: In response to NERC's commitment to review the CAN process and all finalized CANs. This CAN is being revised again.

Comments:

In the United States, the federal government is prohibited from passing ex post facto laws by clause 3 of Article I, section 9 of the U.S. Constitution and the states are prohibited from the same by clause 1 of Article I, section 10. This is one of the very few restrictions that the United States Constitution made to both the power of the federal and state governments prior to the Fourteenth Amendment.

For example, if an entity initialized their PSMP on June 18, 2007 and their program specified a 5 year interval for protection system maintenance, it would be reasonable to expect that that entity would perform maintenance and testing on 20% of their protection systems each year. After a 3 year period, a CEA would expect that 60% of their protection system would show evidence of maintenance and testing and that after 5 years, all protection systems would have been tested. If an audit was performed during this period and the entity's records were showing that it was behind in its 20%/year maintenance schedule, there would be cause for concern.

Another example. Prior to June 18, 2007, an entity's maintenance and testing program used an interval of 8 years and on June 18, 2007, their PSMP changed to a 4 year interval. The CEA again would be looking forward from the mandatory compliance date to verify that the entity is performing maintenance on 25% of its protection systems. The current PSMP established an interval of 4 years, you cannot hold the entity accountable to that 4 year interval from the past.

From CAN-0008:

Issue: Under what circumstances are CEAs required to consider evidence dated before June 18, 2007 in connection with their review of issues related to PRC-005-1 R2?

For the purpose of aiding a CEA, this CAN provides instruction for assessing whether an entity was following its Protection System₂ maintenance and testing program starting from June 18, 2007.

Compliance Application

CEAs are to obtain the last date a registered entity tested and maintained its Protection System devices in order to verify compliance with PRC-005-1 R2. Compliance with PRC-005-1 R2 is to be verified starting from June 18, 2007.

"The last maintenance or test date is necessary for a CEA to determine whether a registered entity is conducting maintenance and testing within the intervals defined by its own Protection System

maintenance and testing program, including in circumstances when the interval began prior to June 18, 2007, the mandatory and enforceable date of the standard.”

NSRF Recommendations:

Prior to June 18, 2007, registered entities were not required to have a protection system maintenance and testing program. NSRF believes NERC is wrong in their assumption that an entity must provide evidence of maintenance and testing prior the effective date for mandatory compliance.

NSRF believes that the CEA should be looking forward from the mandatory compliance date, June 18, 2007 for evidence that the entity is establishing maintenance and testing intervals in accordance with its PSMP. NSRF believes the CEA should be prohibited from requiring evidence prior to June 18, 2007.

This CAN should be modified to state that a registered entity needs to show evidence of compliance for its PSMP from June 18, 2007 forward. The entity should be able to demonstrate that it is on track to perform testing and maintenance for all of its protection systems in the interval defined by their PSMP.