

CAN-0016 Review and Recommendations

Please accept the following comments on behalf of the MRO NSRF concerning CAN-0016.

The MRO NSRF agrees with the updated view of this CAN, from a Compliance Enforcement Authorities perspective, which leads to a transparent process the Registered Entities can incorporate into their processes thus, enhancing our compliance programs, (which should enhance the reliability of the BES).

Within our industry, it is believed that CIP-001 is a rather easy Standard, 1) have a procedure for the recognition and making operating personnel aware of sabotage events, 2) have a procedure for communicating sabotage information, 3) provide operating personnel with sabotage response guidelines, and 4) establish communication contacts with the FBI or RCMP.

CIP-001 is a heavily violated Standard and the issuance of this lengthy CAN may skew what the purpose of CIP-001 actually is. CAN-0016 is four pages long and perhaps our resources should be refocused to other areas, assuring that our system is as reliable as it can be.

There are still several issues that the MRO NSRF would like bring to NERCs attention.

Implementation of CAN: As with any process, there needs to be an “Implementation date” established for each CAN. Entities cannot merely “flip a switch” and update processes to follow the guidance within a CAN or any other NERC process or document. This implementation date will allow entities to analyze their processes and assure that they meet the intent of the CAN. If there is no implementation date, NERC should provide guidance on non compliance and self reporting to assist entities upon posting (and being immediately enforceable) of a CAN.

As stated in CAN-0016, **“Issue: What facilities should be included in a registered entity’s sabotage reporting procedure?”** CAN-0016 does not clearly address this issue (until page 3, under Effective Period for CAN, item 2.b.). There are many other issues addressed but not “what facilities should be included in a registered entity’s sabotage reporting procedure?” NERC needs to address this issue and stop. As R1 of CIP-001-1 is written, an entity may include or exclude any owned asset within their procedure. There has been nothing posted by NERC stating that there is a reliability gap associated with any entity not reporting non BES sabotage events. NERC and entities are spending a lot of time and effort with no tangible results. Recommend that NERC provide guidance on what facilities should be included in a registered entity’s sabotage reporting procedure. Recommend that the CAN be streamlined and rewritten to read:

“Issue: What facilities should be included in a registered entity’s sabotage reporting procedure?”

CAN guidance: The CEA is to identify possible non-compliance and a possible violation, if a registered entity: excludes facilities that, if subjected to a sabotage event, could impact the Interconnection (BES) where not included within the sabotage reporting procedure.

The following items are associated with this revised CAN-0016 and may not matter if NERC addresses the “facilities” issue and then stops.

Top of page 2, #3, NERC states: “*pursuant to its procedures, a registered entity’s personnel are able to recognize sabotage events that happen on the registered entity’s facilities;*” This statement goes beyond what the requirement states. Within CIP-001, R1 it states “*...procedures for the recognition...*” not “*a registered entity’s personnel are able to recognize sabotage events*”. This would imply all company personnel; it would mean that all employees were trained in identifying sabotage. Both of these issues are not within the scope of R1. Many entities rely on trained professional (ie, FBI, RCMP, local law enforcement) to determine if an event is sabotage. Recommend # 3 above be deleted.

In addition, #2, #3 and #4 (at the top of page 2) all use the word “...personnel...” when “operating personnel” is used within CIP-001. Recommend “operating” be added in front of “personnel”. This will keep the CAN in line with the Standard and not expand the scope of each requirement.

The following is written at the top of page 2; “*The emphasis of the standard is for the registered entity’s personnel to be able to recognize sabotage event(s) that may impact the reliability of the bulk power system (BPS) and make operating personnel aware of recognized sabotage event(s)*”. CIP-001 (R1 and R2) does not use bulk power system (BPS) but rather “Interconnection”. NERC defines Interconnection as “*When capitalized, any one of the three major electric system networks in North America: Eastern, Western, and ERCOT*”. Recommend changing BPS to Interconnection, this will make the CAN align with the Standard which it supports.

Middle of page 2, NERC states “*While a registered entity’s sabotage reporting procedure may require personnel awareness of specific items for a particular facility, a registered entity is not required to list any of its facilities in its sabotage reporting procedure. If an employee is properly trained to recognize a sabotage event, the employee will be able recognize a sabotage event regardless of where on, or in, the registered entity’s facilities it occurred.*” NERC now interjects the use of the word “employee”. This could and will be viewed as “all company employees” are required to recognize what sabotage is. This is not within scope of CIP-001. Recommend this section to be deleted.

Under **Effective Period for CAN** NERC states: “*This CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance upon the posting of this CAN on the NERC Web site*”. Recommend an implementation by date be provided for each approved CAN.

Top of page 3, NERC states; “*2. However the CEA is to identify non-compliance and a Possible Violation, if a registered entity:*

a. did not respond to this compliance guidance and therefore its current sabotage reporting procedure specifically excludes facilities that, if subjected to a sabotage event, could impact the BPS, ” Is NERC trying to answer the original issue which is the basis of this CAN by this statement? NERC needs to come out and address the original issue and stop. Recommend a) place this statement on page one and stop, NERC is answering the issue with this statement. b) remove the word “compliance guidance” and replace it with “Compliance Application Notice”.

NERC is stating that if this CAN is not followed, an entity will be found non-compliant. But NERC also states in the “Draft CAN Process” that entities may have an “equally efficient and effective alternative to maintain compliance”. So, this CAN states the only way to prove compliance is by following this CAN but the NERC CAN process states otherwise. Recommend that this CAN give clarity and reflect that entities may have an equally and efficient alternative to maintain compliance.

“b. responded to this compliance guidance only in preparation for an upcoming audit”. Recommend this statement be deleted, this has no impact on reliability. If an entity was to receive a CAN the day before their audit and processes were updated, they would be found non-compliant. Threats of non compliance should not be stated in this fashion by NERC. NERC is to be transparent and give guidance (clarity) to the industry to ensure that a reliable system is maintained. Recommend this section be deleted.

Page 3, **Evidence of Compliance.**, NERC states:

“1. recognize a sabotage event that may have an impact on the BPS,” . The use of BPS expands the scope of the statement. Recommend replacing it with “Interconnection” as it is used in the Standard.

Throughout CAN-0016 , NERC uses Bulk Power System (BPS) to describe to what level this CAN shall be applied too. We believe that NERC is not following the distinction between BPS and Bulk Electric System (BES) as stated in FERC Order 743. Section 100 states: *“...the Commission addressed the definition of “bulk electric system” and not the definition of the statutory term “Bulk-Power System.” Although the statutory term Bulk-Power System defines our jurisdiction, the Commission believes more clarity and certainty is achieved in this context by focusing on whether facilities are part of the bulk electric system. Ensuring that the bulk electric system definition encompasses all facilities necessary to reliably operate an interconnected electric transmission system will not cause the application of the Reliability Standards to extend beyond the jurisdiction prescribed in section 215. The Commission, the ERO, and the Regional Entities will continue to enforce Reliability Standards for facilities that are included in the bulk electric system”*.

Recommend that BPS be replaced with BES throughout this CAN so that NERC may be in compliance with FERC Order 743. The use of BES within the CAN will assure that it is aligned with the FERC approved NERC Reliability Standard, thus assuring a reliable BES.

In closing, we recommend that a CAN Process Manual be in place prior to issuing of any CAN. Without an agreed upon process, each CAN could be contested since the CAN Process Manual is not approved yet