

## Comments to the NERC CAN Process Manual.

The MRO NSRF supports the use of a Compliance Application Notice (CAN) in establishing consistency and transparency to our industry. We firmly believe that any process needs to be defined and mutually accepted by all stakeholders before that process can be applied concerning the intent of said process. Without an approved process, NERC and Stakeholders will continue to go back and forth on CANs since there is no guiding document for the CAN Process.

The overall recommendation is to place on hold, on all CAN's until the CAN Process Manual is approved. The following are recommended changes that should be reviewed and incorporated into the CAN Process Manual.

1. Within the Purpose, item 2 implies that while providing transparency to the industry the CAN will describe “how” the CEA will apply compliance with a NERC Reliability Standard. This statement may be viewed as the “only way” an entity can prove compliance. A CAN should assist the industry to sustain compliance and allow each entity to design and implement their own unique process for the sustainment of compliance, thus assuring a reliable bulk electric system. As stated in the NERC CAN Process, “... *allows the ERO and Regional Entities to provide that clarification on a going-forward basis...*”. Clarification is a verb that means “to make understandable”. The real purpose of a CAN is to provide guidance to CEA's and Stakeholders about one or more acceptable means of demonstrating compliance. Recommend #2 to be rewritten to read: *”To provide transparency and clarification to the industry concerning language in a NERC Reliability Standard and how a CEA may apply compliance with a NERC Reliability Standard with guidance set in a CAN”*.
2. Within the Scope section, NERC explains that a CAN is based all four principles. Concur with the first three principles but believe that the fourth principle may be over reaching for all CANs. As stated, “*A CAN applies to any facilities that affect the reliability of the BPS*”. It is not only facilities, but a) processes, b) before the fact and c) after the fact actionable items that a CAN could be applied to. Since each CAN is associated with a NERC Reliability Standard, then each CAN should apply to the Applicability of each Standard and be aligned with the Purpose statement of the Standard. Recommend that the fourth principle be rewritten to read: “*A CAN will clarify the request for compliance guidance from industry stakeholders*”.
3. Within the CAN Process section, NERC states in the last sentence, “...*and submitting CANs to the Commission for review before posting them on the NERC Web site as final*”. Within our industry (to include NERC) there is no ability to update, change, enhance, etc. a process over night or “flick a switch” to make something happen. NERC needs to give the industry an implementation time so that the CAN may be reviewed and either incorporated or have an equally efficient and effective alternative. Recommend an Implementation date be established for each CAN.

4. Within section A of Issues Identified, NERC states four avenues for NERC to receive CAN topics. One obvious process is missing. There should be Lessons Learned provided from the NERC Event Analysis Program and other NERC data gathering working groups that could find a Standard that requires clarification, not just during an audit. The President and CEO of NERC has stated that we need a “defense in depth” approach to assure reliability (which we agree) and there are other processes that could uncover a need for a CAN. Recommend #5 be updated to read; *“Other processes and programs sponsored by NERC which support the reliability of the Bulk Electric System”*.

5. Within section C (and section D concerning the RE) of the Development Process it states that NERC Staff begins the development process. Disagree with NERC Staff developing the initial CAN. (Note that there is concern within the industry that the CAN process is not sanctioned in the NERC’s Rules of Procedure. NERC is basing the existence of the CAN process on FERC Order 693 and therefore has the ability to write any clarification without a defined process supported by the NERC Rules of Procedures). The need for a CAN should be scoped by NERC, since (based on #4 above) they are the focal point via the CAN process to receive a request for a CAN from the industry. The development of a CAN should rest with the BOTCC. Within the scope of the Compliance and Certification Committee it states, *“...advise the NERC Board and NERC Compliance regarding all facets of the NERC Compliance Monitoring and Enforcement Program...”* CAN’s have become a crucial part of the CMEP by providing “clarity” to the CEA and Industry Stakeholders. NERC and each Regional Entity will still have the opportunity to comment on the proposed CAN which allows non users, owners and operators to submit comments as the industry does. Once comments are received, the CCC should post acceptance or rejection remarks for the industry to review (this is not currently happening by NERC). The final review and approval of the CAN requires members of the BOTCC and industry stakeholders to approve the CAN. Whether this recommendation is accepted or not, we request that NERC (or others) provides sound judgment to why a recommendation was rejected or accepted.

6. Section G. A webinar should be conducted between the times when the final CAN is approved and the implementation date of the CAN (see item #3).

7. Throughout this CAN Process and other posted CANs, 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 Process Manual 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.

As an alternative measure to the CAN process, NERC should enhance the training program for Regional Entity auditors and allow Industry Stakeholders the opportunity to receive said training. The current training program doesn't address auditing of specific standards. Auditors should review evidence associated with each Requirement, knowing that there are several ways to satisfy each Requirement. The Reliability Standards Audit Worksheets (RSAWs) were developed to drive consistency between regions and provide transparency in the auditing process. While the RSAWs have provided a valuable tool, CANs are being developed to facilitate a clearer understanding of what documentation is needed to prove compliance. The issue appears to be interpretation of a Reliability Standard by Regional Entity auditors. This issue can be resolved by NERC providing specific training on how to audit a Reliability Standard. A good place to start with the training would be on the most violated standards. Then in future audits, as an auditor writes up a finding that doesn't fit the NERC training model, NERC is in a perfect position to see the finding and dismiss it; then, follow-up with additional training for the auditor. The goal should be to have no CANs issued.

The MRO NSRF would like to thank NERC for this opportunity to comment on our CAN process which provides clarity to Industry Stakeholders, the CEA and thus assuring a reliable Bulk Electrical System.