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Backfitting and Issue Finality Public Meeting

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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COMMITTEE TO REVIEW GENERIC REQUIREMENTS (CRGR)

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PUBLIC MEETING TO DISCUSS BACKFITTING

AND ISSUE FINALITY

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TUESDAY,

FEBRUARY 28, 2017

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ROCKVILLE, MARYLAND

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The Committee met in Room T-2B1 at the Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, at 1:00 p.m., Edwin Hackett, Chairman, presiding.

1 PRESENT:
2 EDWIN HACKETT, Deputy Director, Office of Nuclear
3 Regulatory Research, Chairman
4 HOWARD BENOWITZ (for EDWARD WILLIAMSON), Senior
5 Attorney, Office of the General Counsel
6 BRIAN MCDERMOTT, Deputy Director, Office of Nuclear
7 Reactor Regulation
8 JOHN MONNINGER (for VONNA ORDAZ), Director, Office
9 of New Reactors, Division of Safety Systems &
10 Risk Assessment
11 SCOTT MOORE, Deputy Director, Office of Nuclear
12 Material Safety and Safeguards
13 LEONARD WERT, Deputy Regional Administrator, Region
14 II
15 STEVEN WEST, Deputy Director, Office of Nuclear
16 Security and Incident Response
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P R O C E E D I N G S

1:02 p.m.

CHAIRMAN HACKETT: Good afternoon everyone. And thanks for joining us. And for your interest in this subject, CRGR and backfitting and issue finality.

I've got a couple of logistical items to go over here. And then we'll also introduce all of ourselves.

I'm Ed Hackett. I'm the Chairman of the CRGR. And the CRGR members are right around the table. We will go over that shortly.

Today's meeting is scheduled from 1:00 to 4:00. I'm really hoping we don't need that entire time. But we'll see. My guess is no. In some of our standard phraseology, we're not looking to make any regulatory decisions today.

A couple of logistical items. The meeting will be recorded. I gather my friend Theron Brown in the booth is recording us on video and audio. And it will also be transcribed to support the meeting summary.

Obviously most folks have been able to get up here properly escorted. Category -- this is a Category Two meeting. So there will be opportunities,

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1 one opportunity at the end when we're done here for
2 the public to participate in the meeting.

3 And we will take questions and comments
4 from the room and from the phone lines obviously. And
5 as we heard earlier, there will be an operator for the
6 Q&A portion.

7 There is an attendance sheet and the usual
8 NRC public meeting feedback forms in the back of the
9 room. Or you can email Nick if you miss those.

10 And the meeting slides are available
11 today. And I believe the handout has the ADAMS ML
12 Number for the handout.

13 Okay. And with that, why don't we go
14 around and have the CRGR members introduce themselves.

15 MR. MOORE: I'm Scott Moore. I'm the
16 Deputy Director of the Office of Nuclear Materials
17 Safety and Safeguards.

18 MR. WEST: Good afternoon. I'm Steven
19 West. I'm the Deputy Director of the Office of
20 Nuclear Security and Incident Response.

21 MR. McDERMOTT: Brian McDermott, Deputy
22 Director Office of Nuclear Reactor Regulations.

23 MR. WERT: Good afternoon. I'm Leonard
24 Wert. I'm the Deputy Regional Administrator in Region
25 II.

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1 MR. MONNINGER: Good afternoon. I'm John
2 Monninger, Director of Safety Systems Risk Assessment
3 from NRO. I'm filling in for Vonna Ordaz who is the
4 official CRGR member.

5 MR. BENOWITZ: I'm Howard Benowitz, the
6 Office of General Counsel. And I'm filling in for Ed
7 Williamson who is the OGC Rep from the CRGR.

8 CHAIRMAN HACKETT: And thanks to you guys.
9 And I wanted to also recognize Les Cupidon as our
10 solid staff for the CRGR. And Les has been at this
11 for far longer than most of the CRGR, current CRGR
12 members.

13 And Nick DiFrancesco just took a seat in
14 the back. He's been doing a lot of escorting. And
15 Nick's helped us out quit a bit as the Technical
16 Assistant for the Office of Research.

17 So with that, I guess I'll start by
18 saying, we did have a public meeting, it's been a
19 while now, September 13. I think we got a lot of good
20 feedback from some of the folks in the room and others
21 at that meeting.

22 And we tried to roll that into our draft
23 reporting for the EDO. Which is really what we're
24 here to talk to you about. We're getting close to,
25 you know, to getting to the point of reporting to the

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1 EDO on the overall tasking.

2 So, we'll go through that and try and
3 summarize all of that for you. And this was an
4 opportunity for public, industry, others to engage
5 with us, I guess, basically one last time before we go
6 final with our official transmittal to the EDO.

7 So, we welcome your feedback. We would
8 ask since we're close to our deadline that any
9 feedback that you have is timely. Which could mean
10 today in this meeting. Or if there's something in
11 writing, hopefully that would come quickly.

12 We have received a lot of great feedback.
13 I think there were four letters in 2016 that were
14 basically focused on the subject of the CRGR
15 backfitting. So, we're already the beneficiary of a
16 lot of documentation that's come in externally to the
17 Committee and to the NRC.

18 So with that, let's go ahead and go to the
19 next slide. So this is just kind of a high level of
20 what we're trying to achieve here.

21 We'll summarize the background of what the
22 EDO tasking, and there are now two memos on
23 backfitting. So, we'll go through and summarize that.

24 We'll also try to do a brief summary of
25 the internal and external stakeholder feedback that

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1 we've received. Then talk about our next steps with
2 going forward to finalize the report for the EDO. And
3 then at the end, have an opportunity for stakeholder
4 comments.

5 I would also say though, we don't need to
6 keep this that formal. If anyone has something they
7 feel compelled to come to the mic, you know, during
8 the presentation or whatever, feel free to do that.
9 The same for the CRGR members can feel free to chime
10 in any time.

11 So moving then next to the next slide.
12 So, I think most folks in the room are familiar with
13 the original tasking that we received from the EDO,
14 which was June 9, 2016.

15 And that really basically put three tasks
16 to the CRGR. And they're listed here. The first is
17 really to look at backfitting requirements, guidance
18 and criteria. A fairly fundamental aspect of what
19 we've been doing.

20 Secondary part was to assess backfit
21 training. And that's across the entire operation.
22 And an awful lot of that focused at OGC because of the
23 training they've provided previously. But also OCHCO
24 and our entire training program that goes into
25 knowledge and transfer of knowledge for backfitting.

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1 And then task three is exactly that too.
2 Knowledge management, knowledge transfer for
3 backfitting. And of course one of the things we've
4 found as we've been doing this, not surprisingly, you
5 know, we've gone through some generations of NRC staff
6 at this point.

7 So is everyone as familiar with
8 backfitting as they should be? And the answer is not
9 as much as we would have hoped. So, we have some work
10 to do in that area. And you know, that's some of what
11 we'll talk about going forward also.

12 So that was pretty well known previous to
13 this. So, let's go to the next slide. Some of this
14 information, depending on how folks have kept up with
15 the activity, could be new.

16 So, two key events happened, at least two
17 key events. And there are probably others. But two
18 that we focused on in 2016. Of course the EDO
19 rendered a decision on Exelon's appeal in the Byron-
20 Braidwood backfit, compliance backfit exception case.

21 That was a fairly landmark decision for
22 the NRC since it reversed a previous decision by NRR.
23 So, that was one item of note.

24 Another one is the Commission SRM that you
25 see listed there for COMSECY-16-0020. And subsequent

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1 OGC guidance on consideration of costs and the
2 applicability to the compliance exception. And those
3 ML numbers, we've confirmed all of these are
4 publically available, if you haven't seen them before.

5 The first one is the SRM. The second one
6 is publically available OGC guidance that was
7 forwarded to me as the CRGR Chairman. But was also
8 made available to the NRC staff and to the public.

9 And what that goes into, we'll go into
10 some more detail on this, is basically previous you
11 might recall that if you -- if the NRC, if the
12 regulator were to exercise compliance exception, you
13 would not have to consider cost.

14 This is new guidance that came on the
15 heels of, I think, it was EPA versus Michigan. A
16 Supreme Court Case where the notion is yes, you do
17 have to consider costs to some extent, right, in doing
18 that type of evaluation.

19 Unless you've decided it's adequate
20 protection. So, that's a fairly significant departure
21 from what we've done in the past.

22 So, what happened with task four is the
23 EDO decided to augment our tasking in this December
24 15, 2016 memo to say that you, CRGR, should be aware
25 of these developments. And should factor these into

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1 your backfit tasking in any ways they may impact what
2 you're doing.

3 And then the last part was task five.
4 Which was then also to ask us to reevaluate, assess
5 the CRGR Charter. And determine if our backfitting
6 scope or process or processes should be updated,
7 changed, modified, you know, to reflect any of the
8 above.

9 So, like I said, we received that in
10 December 2015. We then renegotiated with the EDO, a
11 new deadline which is March 27 of this year. Because
12 you might recall, our previous deadline was January
13 31. So, we've moved that out further in time.

14 So that's the background on the tasking.
15 So maybe I'll pause there just in case any of the CRGR
16 members wanted to add anything? Or, that's a good
17 pause, stop.

18 So with that, we'll just go into a
19 summary. The next slide starts with summaries and the
20 feedback we've received. And I think some of this is
21 fairly obvious. And we've received this feedback
22 before in a different forum.

23 Certainly there's been commentary for a
24 while about enhancing the timeliness of some of these
25 decisions and regulatory actions. And in every case

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1 here we tried to identify where the feedback came.
2 Whether it was external or internal.

3 I think we heard at the September 13
4 meeting, improving or enhancing the safety focus for
5 the Rule, in this case 51.09, and addressing this
6 application and compliance exception was a focus at
7 our September meeting.

8 I believe Tony Pietrangelo gave a
9 presentation at that meeting where he said, you know,
10 one of the aspects that you don't want to lose in
11 looking at backfitting, is that it's a safety-focused
12 rule. You know, with -- along the lines of there are
13 limited resources in the industry and the NRC to focus
14 on some of these issues.

15 And if you are not focusing correctly, you
16 are misapplying, potentially, these resources. So
17 it's a safety-focused rule.

18 Cost benefit related documents. Obviously
19 we were aware, I think, in advance that they were in
20 need of updating and alignment. There was some
21 discussion also combining the plant-specific and
22 generic backfitting evaluation guidance.

23 As folks may know, the CRGR's role
24 previously and currently is to only look at generic
25 backfitting. So, there's been some discussion

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1 including from the September meeting that should not
2 the CRGR be more involved across the board, including
3 plant-specific?

4 The cost benefit documents and the
5 regulatory analysis documentation is actually in the
6 process of being revised now. Most of that work is
7 within NRR. But we can talk about that some more too.

8 We certainly identified at the -- not just
9 at the September meeting, but before that, the need to
10 enhance consistency among the regional guidance
11 documents in this area and the area of backfitting.

12 Or things that might be looked at as
13 possibly implicit backfits. And I think we also knew
14 that the guidance for materials licensees could
15 certainly be improved in this area too.

16 So, that was the feedback for task one,
17 which as the criteria. So, we'll move onto task two.

18 Here's a sampling of some of the feedback
19 we received on backfitting training. We did hear from
20 the industry at the last meeting and before that, you
21 know, develop/enhancement of training to support both
22 licensee and licensee staff and NRC staff.

23 And we made some progress in that area.
24 I know some of the materials have been requested. I
25 believe there was a FOIA whereby some of our training

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1 materials that were redacted, were transmitted to the
2 public. And I want to say that was the fall of last
3 year. So, a lot of that information is out there.

4 Oh, protecting that information is -- some
5 of it is attorney/client privileged. So, from OGC to
6 the staff, there are considerations in that regard so
7 that all of that would not probably ever be entirely
8 public. But the majority of it, I think, is -- can be
9 made available publically.

10 We received some feedback internally that
11 our available training is sufficient in terms of high
12 level understanding of the concepts. And certainly
13 some roles we knew would benefit from enhanced
14 training.

15 I think, you know, that would include
16 inspectors. Certainly included the CRGR. We all got
17 the training last year. And I think we all benefitted
18 from that too.

19 We talked about this at the opening, a
20 somewhat general lack of knowledge and experience
21 regarding backfitting by the technical staff.
22 Certainly received that feedback internally.

23 And then we talked about the idea of the
24 training, some kind of centralization of the training
25 to increase the consistency among the regions would

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1 also be a good idea. So, we'll move to the next task,
2 task three.

3 And these are just samples of what we
4 received. But we thought it would be a good idea to
5 share some of this in this forum.

6 So, backfit knowledge management, I think
7 I mentioned this in the opening too. We are aware
8 that, you know, we'd certainly missed some
9 opportunities for capturing and storing backfitting
10 knowledge that we're trying to correct.

11 So, we received that feedback internally.
12 In fact I guess most of these were internal pieces of
13 feedback. Or all of them are.

14 Yes, it's infrequent, especially at the
15 high level, the generic level, it's infrequent enough
16 that, you know, it's easy for us to create a potential
17 lapse internally in backfitting knowledge and
18 experience.

19 A good example I could site there is just
20 since we met with the public last, last year, I'm not
21 aware of any specific items coming before the
22 Committee during that time frame, you know, that we've
23 had the disposition. So, I'm aware there are some
24 coming. But, you know, so we've had a multiple month
25 lapse with no major activity for CRGR.

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1 We're certainly aware that a need exists
2 to develop a more robust and active KM program. And
3 again, back to this notion of improving consistency
4 across the regions and the offices.

5 And you know, one thought that occurred,
6 consider expanding the role of office level POCs to
7 serve as subject matter experts on the backfitting
8 process, again, internally. And maybe that's a way of
9 disbursing knowledge in a more efficient, effective
10 way throughout the agency.

11 So those were the -- some of the piece of
12 feedback on the -- on the first three tasks. Which
13 we've had for quite a while. So, now we shift to the
14 next slide. Which is task four.

15 Clearly we had beforehand, I think well
16 beforehand, a realization and focus especially from
17 the industry that the compliance exception and
18 guidance should be clarified. I think there was a
19 memo from NEI.

20 I think again, Tony Pietrangelo's
21 signature over a year ago, which focused, you know, a
22 lot of attention on the subject of misapplication of
23 the compliance exception. So, we were aware that
24 that's something that we wanted to address in terms of
25 addressing these backfitting decisions since the

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1 original tasking.

2 And then, you know, from our perspective
3 as the CRGR, I think we felt we've internalized the
4 lessons from EDO decision on the Exelon's -- on the
5 Exelon backfitting appeal and the Commission SRM.

6 A corollary to that is, I think there's
7 more work to be done to have that realize that the
8 appropriate level for the entirety of the NRC staff
9 and the inspection activity, I think there will
10 definitely be more work to be done there.

11 But the summary here is, we're definitely
12 aware there's really a new game in town when it comes
13 to specifically the compliance exception and the view
14 of adequate protection. It's very well captured in
15 OGC's guidance.

16 So those were some very important
17 developments from 2016. So we'll go to the next slide
18 for task five.

19 Which is -- this is -- gets to, I think,
20 us being more philosophical about the role of the CRGR
21 and assessing whether scope or process changes are
22 warranted. We had a lot of internal discussion among
23 the Committee members about what this should mean for
24 us.

25 Because there are -- I think I said this

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1 at the last meeting, the CRGR is actually a part-time
2 activity. So the folks that you see sitting here are
3 -- all have day jobs.

4 And so to have the CRGR overly engaged is
5 probably not the right answer either. To have them
6 engaged at too high a level, I think, is what's been
7 perceived previously, is also maybe not the right
8 answer. But, you know, kind of the Goldilocks' thing
9 somewhere in between is where we want to try to find
10 some kind of sweet spot.

11 So, we did receive the feedback that
12 clearly at the last meeting, that CRGR or some other
13 mechanism, I should have said, should address other
14 NRC processes that the industry raised at the last
15 meeting.

16 Inspection activities, TIAs, FAQs, NRR's
17 support or -- for inspector positions, and so on, are
18 oftentimes where, I guess, what you would call
19 implicit backfits maybe creeping into the process that
20 are not as obvious as something like exercise of
21 compliance exception on an open phase condition, for
22 instance.

23 Certainly we were aware and in our
24 planning for increasing openness and transparency in
25 the process, through meetings like this, is a number

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1 one aspect. But also through the use of CRGR review
2 meetings that would be -- have both internal and
3 external components.

4 So, I'll spend a few minutes there. As
5 most folks in the room or on the lines probably know,
6 the CRGR usually meets internally with the staff. And
7 either formally -- that's the formal meeting. You can
8 also do that in what we call the informal manner, by
9 email or other remote processes.

10 In more compelling situations where
11 backfit is, I think, challenged or highly visible,
12 what we talked about is that would we not entertain
13 also a meeting with the public, with the industry,
14 with other stakeholders. And I think the answer is,
15 in the future we'd like to see that added as an
16 opportunity.

17 CRGR has not typically operated that way
18 before. So that is something under consideration as
19 a proposal to the EDO. And how would that work?

20 You know, if we had a formal meeting we
21 might do that formally first with the staff. And then
22 separately with public stakeholders. And then
23 deliberate separately from that. And that would be a
24 significant change to how we operate.

25 And then we did receive some commentary

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1 that, you know, obviously continue to have the
2 backfitting process provide, associated with what I
3 just said, multiple opportunities for licensees to
4 raise potential backfitting claims, you know, in --
5 you know, from externally to us as the CRGR to less --
6 or to others.

7 So, task five is still, I think, a work in
8 progress that we need some more discussion on. We're
9 happy to hear views on that going forward.

10 I think I mentioned as part of the
11 openness and transparency piece, we would foresee
12 doing meetings like on some periodic basis. I don't
13 know if it's yearly or biannually. We'd need to
14 figure that out.

15 But that clearly needs to happen. Before
16 we had the meeting last year, I think it was six years
17 before the CRGR had met with anyone outside the
18 agency. So, that's clearly not the right answer.

19 So that's kind of a summary of the
20 feedback. And then we have the next slide on the
21 overall summary. But I'll pause here again and see if
22 anybody had any comments they wanted to add?

23 And if not, this may go very smoothly. As
24 some of you may recall from the last meeting, we way
25 over-achieved at the last meeting. I think we planned

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1 for a full day. And we needed more like half a day.

2 So, that's okay, too. Okay, so our --
3 Brian?

4 MR. McDERMOTT: This is Brian McDermott.
5 Just something to add for everybody's awareness. You
6 know, CRGR with the EDO's taskings is focused on the
7 future and how do we update this guidance and so
8 forth.

9 But, as Ed mentioned, in the second EDO
10 tasking discussion, there were two real drivers there,
11 the Byron-Braidwood backfit, as well as the OGC review
12 of the recent court cases. We need to take those
13 things into consideration now.

14 So, part of what's going on that you might
15 not have visibility if you're only looking at what
16 CRGR is doing, is what's going on in NRR relative to
17 some of the other issues that are in process. Whether
18 they be task interface agreements.

19 Keep in mind, we also have the open phase
20 condition issue that's up before the Commission. And
21 we're awaiting their decision on that. I don't think
22 a final decision's come out yet on that.

23 But, these are all things that are working
24 in the background that directly relate to the
25 decisions and positions taken. So, we can't just wait

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1 until the guidance comes out and it's finalized, to
2 shift what we're doing. We need to adjust what we
3 have in process.

4 So I just want to provide that for your
5 awareness. That even though it looks like it's taking
6 a while to maybe get moving on some of this guidance,
7 or even to respond to the EDO's tasking, there's other
8 work in progress that we need to address as well.

9 CHAIRMAN HACKETT: Yes. Well said.
10 Thanks Brian. Anybody else?

11 (No response)

12 CHAIRMAN HACKETT: Okay. We'll just do
13 the, you know, the overall summary here. So, for task
14 one, two, and three, I think I may have said this
15 before, those I think are pretty straightforward.

16 A lot of that is already underway or well
17 in hand. So, actions are currently engaged within the
18 CRGR. And even more so, you know, within the staff.

19 I think, or we think the biggest challenge
20 would be to ensure this appropriate backfitting
21 training and guidance for the processes, such as
22 inspections and TIAs, et cetera that we talked about
23 at the regional legal. And that becomes more
24 complicated, I think, then just training to, you know,
25 Len can speak to this better than I could.

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1 But, you know, because one of the things
2 I think we both struggle with is when a licensing
3 basis is not as clearly defined as we'd like. And you
4 have inspectors out there doing their activities. And
5 then you factor in what is or isn't a backfit. It can
6 become a fairly complicated landscape.

7 So, you know, we have to figure out the
8 best possible way to navigate that. And what, if any,
9 role for the CRGR is involved or indicated in that
10 case. So, that's probably the biggest challenge that
11 we're seeing.

12 I think as regards like what -- commenting
13 on what Brian just said, I think 2016 has been a, you
14 know, a watershed year for the NRC in terms of, I
15 think, you know, rebaselining where we're coming from
16 on backfitting with some of those key decisions that
17 were rendered. And haven't really been touched for
18 quite some time before that.

19 So, that's the high level summary for the
20 task one, two and three. And I guess I more or less
21 just addressed the task four piece too.

22 You know, we have internalized those, as
23 Brian mentioned again, the lessons from the appeal and
24 the subsequent notice of OGC guidance. And we will be
25 applying those going forward.

1 Brian mentioned the Commission decision on
2 open phase, which hasn't been rendered yet. But my
3 understanding is the Commission will be looking at
4 this through this lense also.

5 I mean, they have -- it's incumbent upon
6 them to do that given the guidance that's shown up
7 since that -- almost a year ago that CRGR first heard
8 the formal presentation for open phase. And so the
9 training and guidance there are being updated for the
10 staff.

11 And then, you know, we talked about the
12 charter scope and process changes. Clearly there's a
13 need, or we all believe there was a need for more
14 openness and transparency.

15 So, our recommendations will be along
16 those lines to the EDO on providing opportunities to
17 engage with industry and public on specific issues and
18 challenges. And then convening periodic public
19 meetings. And again, we haven't figured out what
20 that, you know, period density would be.

21 So that's the highlight of the overall
22 summary. And I think, yes, we'll go to next steps.
23 So a lot of this is a reiteration.

24 What we want to do is be able to role in
25 whatever feedback we receive from this meeting.

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1 Either directly here in the transcript or in writing
2 if folks are going to choose to send us letters or any
3 kind of feedback, you know, via those mechanisms.

4 And then be able to finalize our draft
5 report to reflect that. And submit the report to the
6 EDO, I guess, we'll knock on wood, hopefully still,
7 you know, just about not much more than a month from
8 now.

9 And then have, you know, have the
10 activities that have been discussed in this report,
11 we'll be going forward for quite some times, as Brian
12 said. There are a lot of other associated activities.

13 As I'm looking at my good friend, Tim
14 Reed, he's one of the folks working on that
15 internally. And some of those activities are going to
16 take a while not surprisingly. Updating of the reg
17 analysis guidelines and associated guidance and
18 training updates to the staff and so on.

19 So, with that our last slide I think just
20 shows the references. So there they are all in case
21 you're inclined to delve into those. Or some folks
22 may have seen all of this before.

23 The only one that's new is going to be our
24 slide, so the very first one slide is from this
25 meeting. The rest of it should have been in the

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1 public record previously. So that's all out there for
2 everyone to check out.

3 And other than that, I think we can --
4 I'll first turn to my colleagues. If there are any
5 other comments? Or if not, we'll -- we can get ready
6 to open things up.

7 (No response)

8 CHAIRMAN HACKETT: And before we do that,
9 I'll do two more things that I was remiss on. To John
10 Monninger and to Howard.

11 John -- as John mentioned, came into the
12 activity, Vonna Ordaz, as many of you know, has been
13 acting Director for the New Reactor Office for quite
14 a while now. And John has been helping us in Vonna's
15 stead. And that's very much appreciated. John's been
16 a big contributor to this activity.

17 And Howard in the same sense has taken
18 over a lot of the work that was formally done by Geary
19 Mizuno. And Geary has been reprioritized on some
20 other activities internally. So, we very much
21 appreciate Howard's contributions to our deliberations
22 too.

23 So, thanks to you guys. And with that, we
24 will entertain any -- I guess first we'll go to the
25 room. And then to the lines.

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1 If anyone in the room has any specific
2 comments or questions? Greg?

3 And that's a good point. If anyone has
4 anything they want to bring up, this doesn't have to
5 be as formal as an ACRS meeting. So you can feel free
6 to come up and sit at the table.

7 MR. HALNON: First of all, thank you for
8 having the meeting. We appreciate this. And you
9 know, the openness and transparency aspect of all this
10 is real important. Because I think we're all learning
11 the process.

12 CHAIRMAN HACKETT: But would you identify
13 yourself?

14 MR. HALNON: Oh, I'm sorry. This is Greg
15 Halnon from First Energy and the NRA Chair. So, we
16 all kind of learned a little bit that goes on behind
17 the scenes on this. And it's good.

18 One thing that in our last meeting I
19 emphasized, was really covered in your task five.
20 Which has to do with the genesis or the birthrate of
21 the backfit issues on a plant specific level.

22 Which usually occur based on either an
23 even, and an inspection team goes in. Or, it's a, you
24 know, CDBI or some other type of inspection that's
25 really looking at the 40 or 50 year old licensing

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1 basis documents.

2 And you mentioned that sometimes they're
3 not as detailed as we like. But that's the genesis of
4 the problem. That we sometimes are at the mercy of
5 the -- what the inspector likes.

6 And to the defense, they are living in
7 today and not in the 1960s. So, clearly it's going to
8 be human instinct to expect more.

9 And it's a difficult discussion to have
10 when the information is not there that you want to
11 have there. And, you know, you have to trust the
12 reviewers back in the early '60s, '70s, that they did
13 their due diligence.

14 And when it comes back where we assume
15 that they did not, that's where the backfit issues
16 come in. So, your task five is very important to us.
17 I mean, clearly the training and the knowledge
18 management piece of it's very important also.

19 But I wanted to kind of just talk a little
20 bit about, when you talk about openness and
21 transparency and public meetings and that sort of
22 thing, for as many times as it happens, I'm going to
23 generalize, but it's not a critical generalization.

24 You know, for as many times as it happens
25 during inspections where we have these discussions on

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1 whether or not the original licensing basis is
2 adequate or not, or was it properly reviewed, very
3 often it's a very low safety significance issue. It
4 might result or be headed towards a green NCV or
5 finding of some type.

6 And -- but we've just spent a lot of
7 resource talking about it. I mean, we're still living
8 one from one of our plants at First Energy that was
9 uncovered a year ago after an event.

10 And it's still in the draft TIA space from
11 what I understand. And I haven't checked up on the
12 recent steps.

13 But, it's a classic example in my mind of
14 where there's an assumption made today that the
15 reviewers in the past, even though they had all the
16 documentation, didn't really look at it. And we make
17 the assumption that they didn't do their due
18 diligence.

19 But, there has not been a portion other
20 than informal, you know, white papers and discussions
21 and drop ins that we've been able to insert into the
22 process in a formal way, to give you the input that we
23 think is important. We've done it informally. But
24 it's been outside the process.

25 So, I would encourage you to look at

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1 working rather than just openness and transparency.
2 Which to me says, we'll let you see what we're doing
3 that actually -- but especially the plant specific
4 issues, to be able to give formally our perspective on
5 the issues.

6 So, when you do adjudicate it either
7 informally or formally, or even outside the CRGR
8 process with knowledgeable backfit people, it's had
9 the full perspective in a formal way. So that it can
10 be on the docket. It can be, you know, appropriately
11 considered in the process.

12 So as you go through task five, that seems
13 like it would be a good place to be. Because I don't
14 think you'll want to have a CRGR formal meeting every
15 time a licensee yells backfit.

16 That green NCV, very low safety
17 significant issue is a backfit. It may cost me a
18 million dollars to fix. That's why I'm fighting it.
19 But, if I let it go as an NCV, I've got to fix it or
20 something to that effect.

21 That may happen more times than you all
22 want to travel to get together and talk about. So,
23 that's one piece of feedback as you get through that
24 all a sudden.

25 Any questions on that aspect?

1 CHAIRMAN HACKETT: I'll just comment,
2 Greg. I think that's a great clarification on what
3 you presented at the last meeting. Because that's
4 what we don't have at the moment.

5 And you're right, I think our internal
6 discussions are mostly going along the lines of, we're
7 not seeing so much of a role for CRGR, because that
8 level has always been fairly above, you know, what
9 you're talking about.

10 But, there needs to be something, you
11 know, institutionalized below that level. And that
12 maybe the CRGR has some kind of role in that.

13 But we haven't, quite honestly, haven't
14 figured that out yet. Len may have some more to add
15 on that. Or not.

16 MR. WERT: Well, let me try. I mean, I
17 appreciate the feedback. And I think I know where
18 you're coming from.

19 But, I would say once we enter the TIA
20 process, in other words, we start our process for
21 formally resolving the issue, there is opportunities.
22 Right?

23 Utilities do put things on the docket. I
24 know they just write letters. For example, we have
25 several that are open in Region II. And we've

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1 received correspondence with very pointed feedback.

2 The gentleman from Duke Power would
3 certainly authenticate that, this is our position.
4 And I think it is helpful. I mean, you're right that
5 it's not some separate step that's designated.

6 But, you know, we welcome that
7 correspondence. And perhaps we should at least, at
8 the very least, extend more opportunities of that
9 method.

10 MR. HALNON: Yes. The marrying of those
11 documents in a process might to where, you know, --
12 and sometimes you don't write a letter unless you're
13 just hot under the collar about it. You know, and
14 just be open about it.

15 MR. WERT: Right.

16 MR. HALNON: You know, as opposed to,
17 wait, we have a place in the process to put our stuff
18 in. Let's not get all riled up about it. Let's not
19 get our legal people, with all due respect, Howard,
20 involved.

21 Let's keep it in the regulatory space.
22 Because the other comment I was going to make is that
23 we tend to very quickly get to very legalistic
24 processes.

25 As opposed to us regulatory guys and gals

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1 softening it in a regulatory space as opposed to, now
2 let's start picking on every word and every, you know,
3 statements and considerations. And what does the
4 Atomic Energy Act really mean.

5 And then you get into these statements of
6 facts. And then, -- we usually -- we all have the end
7 in mind is to get the right answer.

8 And I think that we can do it more
9 effectively in regulatory space if we keep it to where
10 we know that during the process we have an expectation
11 that we will have our due time. And we'll be able to
12 do that.

13 As opposed to the informal or just the
14 letter writing way now. So, you know, there's a place
15 up front. I know that in an inspection exit, if we
16 disagree with a definition or the finding, you know,
17 we state it explicitly in the exit meeting that we
18 disagree with that.

19 And then that clicks off another process
20 within the Region that you all are well aware of.
21 But, if we say that, you know, the fact that you're
22 telling me it's a backfit, that doesn't click off
23 anything that we know of where I have another
24 opportunity to do it.

25 Other than getting into the legal process

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1 of backfit appeals and other things like that. Which
2 is where the Exelon went and made their points. And
3 that's fine. It's just that it gets out of the
4 regulatory space pretty quickly at that point.

5 I think that's all the comments I have.
6 So, I appreciate the opportunity.

7 CHAIRMAN HACKETT: Thanks, Chris.

8 MR. McDERMOTT: This is Brian McDermott.
9 I'd just like to add for awareness. We did change the
10 process relative to TIAs. I think it's in draft now.
11 But we're still -- we're working with it at this point
12 in time.

13 And we are sharing the draft TIA response
14 back with the plant to provide an opportunity for fact
15 check on the references and so forth. But, listening
16 to you Greg, I'm not sure that that gets at the heart
17 of what you're looking for.

18 Which is more of an opportunity just to
19 sort of lay out the case as opposed to fact checking
20 the documents. So, I take that feedback.

21 CHAIRMAN HACKETT: Okay. Joe, please.

22 MR. SHEA: Joe Shea, Tennessee Valley
23 Authority.

24 CHAIRMAN HACKETT: I think it's still not
25 no. You need the green light. There you go.

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1 MR. SHEA: Joe Shea, Tennessee Valley
2 Authority. Brian, you mentioned that you're not
3 necessarily waiting for all of the changes to be
4 finalized while you're trying to apply the Exelon
5 learning sort of real time.

6 Things like TIAs and other issues that
7 are, you know, working through different processes.
8 And I, you know, I appreciated your commenting on
9 that.

10 Are you considering in the -- there's a
11 number of, a small number of kind of big ticket issues
12 out there that the utilities are working through.
13 Tornado missiles, so it's like that sort of thing.

14 Are you considering going back and looking
15 at the compliance exception analysis, basis,
16 discussions that underpin those even though they, you
17 know, are a couple years old. But they're still in
18 implementation space.

19 To ensure that they had the same rigor and
20 logic that ultimately the Exelon final decision did.
21 Which was, you know, which was kind of gold bar
22 standard from compliance exception analysis.

23 To go make sure that those are still on
24 the sound footing

25 MR. McDERMOTT: Yes. So, we have some

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1 that are, I'll say, in approximate -- I'm sorry.
2 Sorry about that.

3 Yes. As I mentioned, there are some that
4 are in process. There are others I think that you're
5 pointing to that are sort of in the implementation
6 phase perhaps.

7 MR. SHEA: They are Brian. But there's a
8 lot of resource spin still ahead on some of those.
9 So, they're not so far down the line that they're in
10 the rearview mirror. And they're, you know, they're
11 big ticket issues potentially.

12 MR. McDERMOTT: I understand that. I
13 would tell you at this point, there's not a concerted
14 effort to go back and look at those. But it's
15 certainly something that we need to consider.

16 You know, I think at the heart of the
17 Exelon decision, you know, it really came down to, you
18 know, did the staff make the case for the issues that
19 were being pressed as a compliance backfit matter?
20 Was there a sufficient documentation to support the
21 staff's position?

22 And where the EDO came out on that it was
23 simply no. There wasn't -- there was enough of a gap
24 apparent there in how the licensing basis had been
25 documented.

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1 And I think the approach on the one
2 example you mentioned, I hate to go off your examples,
3 but on that tornado missile, I think that is an area
4 where there are a number of gaps. And the approach
5 the NRC has taken there is not necessarily to drive
6 compliance backfit per se.

7 It's to provide the opportunity for
8 licensees to identify those issues. And then provide
9 a period of discretion for those to be resolved. And
10 how it might be resolved might take a number of
11 different paths.

12 So, we can certainly look at it again.
13 But --

14 MR. SHEA: Yes. I'd encourage you to do
15 that. Because there, you know, that would be one way
16 of looking at it. I think there would be others who
17 might see it just like the Exelon one where there were
18 gaps in the licensing basis.

19 And while it's viewed as an opportunity,
20 in the end, the licensing basis for all those plants
21 on tornados was what it was. It had lots of detail,
22 a little detail, and had stood for quite a while.

23 So, you know, the idea that the door is
24 open to go relook and fill in some of those gaps,
25 that's not a -- that's not been an expected outcome.

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1 You know, just accept it as it was. You
2 know, unless there was something that was clearly
3 plant specific deficient, so.

4 MR. McDERMOTT: I understand your point.
5 So even though I -- we were talking about employing
6 risk informed methodology to resolving those gaps,
7 you're saying that it would be better to leave the
8 gaps.

9 MR. SHEA: It could be. It could be. And
10 the other comment, I'll ask Brian as well, was in
11 terms of some of the reviews, and maybe it's TIA
12 reviews and that sort of thing, as you're looking at
13 the potential for whether a compliance exception or
14 compliance packet is implicitly or explicitly being,
15 you know, considered, are you anticipating that the
16 level of discussion, the approach to analyzing, you
17 know, whether you've got a compliance gap or not, is
18 going to be set to kind of what I'd call the Exelon
19 gold bar.

20 I mean, that was truly, you know, a really
21 written argument. Both regulatory -- it was frankly
22 a good regulatory argument, not necessarily just a
23 legal one.

24 So, -- and I would expect sort of that
25 level of rigor to infuse analysis almost at the

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1 inspector and branch level much, you know, rolling up
2 to back the analysis. So, I don't know if you have
3 any perspective on kind of what expectations are set
4 internally as you go through and look those issues.

5 MR. McDERMOTT: Well, we haven't put the
6 guidance and training in place. But I think as a
7 practical matter, you know, I think what we're being
8 very cautious about is when those gaps do occur in
9 licensing basis, they come up through these process
10 that we're on guard, if you will, for the idea that
11 those gaps would be filled in by the staff referencing
12 newer standards. Right.

13 And that's really the, I think, kind of at
14 the heart of it. It's using current knowledge to try
15 to bridge between what was documented before. And
16 what would be perhaps approved in a license amendment
17 today with a forward looking perspective.

18 So, we haven't quite captured that yet.
19 We still have the taskings. So, the CRGR will provide
20 its response to the EDO. And then we'll get the
21 direction back. And go forth and do good. And work
22 on those things. And we'll be having engagements as
23 we do that.

24 But, the idea that kind of underpins
25 those, I would say has been, I think, embraced by the

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1 management team. And there's an active sort of hunt
2 for those now as we're looking at things as they go to
3 OGC for their review. I think it's -- as Ed said,
4 2016 was an interesting year.

5 And it, you know, it was enough of an
6 event that it certainly caught the attention of
7 management and staff.

8 MR. WEST: This is Steve West. I agree
9 with Joe. I think it was probably the best document
10 ever issued by the NRC.

11 But, I will just say, to do that review
12 was very -- it took a lot of time and resources. It
13 was very costly if you just look at the time it takes
14 to do the deep dive that was done by the review team.

15 I think the -- I agree with what Brian is
16 saying. I think the approach to be taken is, when you
17 look at that review and kind of dissect it, you know,
18 how did they get to the answer they got to?

19 What information did they need? And how
20 did they find it? We might be able to distill from
21 that a process that would allow us to do similar
22 reviews and reach similar conclusions without feeling
23 quite the deep dive that team needed to do.

24 Because, I mean, I can just tell you as an
25 agency, any organization, if you had to do that on

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1 every thing where a question came up on licensing
2 basis and maybe other things, it would just, you know,
3 essentially paralyze you.

4 But I think we got some learnings out of
5 that about what's important to look at, what could be
6 happening over time with an issue in industry as it
7 progresses, as new plants come onboard -- or new
8 reviewers.

9 And looking for subtle changes in staff
10 position that were probably inadvertent. And even the
11 staff didn't know or the industry didn't know.

12 So I think there's learnings from what we
13 did that will help us do what you're looking for,
14 suggesting.

15 MR. McDERMOTT: Yes. This is Brian
16 McDermott again. You know, another thing I'm thinking
17 about Joe and Greg's comment earlier about the
18 inspectors and what they're looking at.

19 You know, one of the -- it's a feedback.
20 And I'm not sure if it was from the earlier CRGR
21 public meeting. But we've heard it in different
22 licencing forums.

23 Is the idea, well, what's the focus of the
24 inspector? And Len, you can correct me as I go along
25 here, or add as you like.

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1 But, you know, one of the things we tried
2 to do with some of the most recent CDBI inspections is
3 make sure that the team went out with a focus on
4 basically validating that the licensing basis was
5 maintained as changes were made. And that's a bit of
6 a shift.

7 Because I think over time as those
8 inspections have been conducted over a period of
9 years, I'll say the low hanging fruit was identified
10 in earlier rounds of those inspections. And so,
11 inspectors being the curious types, continue to dig.

12 And that would, I think perhaps naturally
13 lead to the issue where they're sort of questioning
14 the original licensing basis. And how did they get to
15 that conclusion?

16 And trying to piece together what
17 documentation there is available for that. As a -- as
18 just kind of the natural course of things as they went
19 to do that inspection.

20 And I think the efforts in the latter half
21 of 2016 to work with the teams, to provide the
22 guidance and feedback that this is really about
23 confirming the maintenance of the design and licensing
24 basis as changes are made to the facilities, was a
25 good focus. And I think we received feedback from

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1 industry that in fact they were noticing the effect of
2 that guidance to the team.

3 MR. WERT: Yes. So this is Leonard Wert.
4 I'm mainly speaking for Region II. Because that's
5 where my experience is the deepest.

6 But I have had discussions with my fellow
7 Deputy Regional Administrators, exactly about what --
8 where CRGR is headed with this tasking. In fact Dave
9 and I formally met with all the Deputy Regional
10 Administrators.

11 And so they had this idea, so it's not
12 just Region II. But we, I think we started down the
13 path of changing the thought processes on our
14 inspectors.

15 You know, exactly how -- you know, where
16 we're going to get to, and exactly how they're going
17 to do that on a piece of paper, we don't have yet.
18 But we have started things like, I think one of the
19 concepts that we talk about is respect for the
20 licensing basis.

21 Don't just jump in there and start making
22 assumptions as soon as you see something that doesn't
23 jive with what you might think. That's one of the
24 things that we're doing.

25 We just had, I think, a successful

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1 implementation of the rewritten CDBI procedure that
2 focuses on maintenance of the licencing basis. We
3 received pretty positive feedback from the licensee on
4 the conduct of that inspection.

5 And I just think just in general there's
6 a sensitivity among our inspectors about how they
7 bring up their questions. And what they're pursuing
8 when we go out on these activities.

9 So, again, that's primarily Region II.
10 But, I think we're all in the fold. And we're all
11 going to get there. But, we have like started down
12 the path of change in the thought process.

13 CHAIRMAN HACKETT: Thanks Len. I think
14 I'll chime in too on this. Because it's very easy in
15 this area, I think, to get very philosophical.

16 So, I'll key off of one of the words Brian
17 used, maintain. You know, so we as the NRC are
18 charged with maintaining/ensuring safety.

19 But, you go to the natural curiosity
20 inquisitiveness of inspectors and different
21 generations, and plants that were licensed 30, 40
22 years ago, and much newer technologies that we have
23 now for inspections and for documenting things.

24 So, the temptation is there for these
25 folks to, you know, you're going to say are you

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1 maintaining or are you enhancing? And that's a fine
2 line. Or it can be a fine line.

3 And yet the feedback from you all,
4 especially in the industry is that well, yes, if
5 you're tilting over into that enhancing column, well
6 that backfit applies. Or it potentially applies,
7 right?

8 But I think in defense of the inspectors
9 that's, you know, they're out there to try to that job
10 as best they can with today's tools. And then as Greg
11 was mentioning earlier, if there's a less than clear
12 licensing basis, it's just a blueprint for all kinds
13 of intrigue, right.

14 So, it can get very philosophical.

15 MR. WERT: So just to add a little bit
16 more to that. This is Leonard Wert again.

17 What we have found in Region II is the key
18 ingredient, and this isn't anything magic, but the key
19 ingredient is the branch chief that supervises that
20 team inspection.

21 That's where we put a lot of focus on how
22 they handle what the inspectors identify. Because we
23 are hiring the best and the brightest. We're hiring
24 some really, really sharp guys. I mean, they know
25 these ANSI standards. They understand IEEE standards,

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1 how they work.

2 And so what we're taking though, is when
3 they come back to something and bring it to the Branch
4 Chief, that's where the critical logic is. It's very
5 important for us at how we handle that. How we
6 document and move it forward the discussions that we
7 have with the licensee.

8 So, if we make continued progress in our
9 guidance documents where we actually have something in
10 black and white. And say, this is what's fair game.
11 This is what's not. We're not there yet.

12 But the philosophy and the thought process
13 is. And again, I think we started down that path. At
14 least in Region II we've had a lot of success in most
15 managing and paying attention to what the teams are
16 doing a lot closer.

17 MR. HALNON: Yes. Len, I completely
18 agree. And it is a hard question. And it is almost
19 unfair to the inspector sometimes when they're
20 applying their present day knowledge, trying to get
21 into the heads of somebody who's probably not even
22 alive right now.

23 One thing that is clear up front is that
24 the licensing basis doesn't -- it very seldom is just
25 what's in the SERs. Or what's been repeated back into

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1 our FSARs.

2 There's other letters that go back and
3 forth. There's, you know, very sparse if any
4 documentation of telecons that were held. There's a
5 lot of things that -- and if you're lucky enough to
6 get back to someone who was around during that time
7 frame, you might get some recollection of things.

8 But those are all different avenues you
9 can try to get to. And it -- one thing that I've had
10 to tell the folks at our plants is that we probably
11 have a better, or more readily available documentation
12 of our licensing basis than the NRC does.

13 And I think there's a misconception out
14 there that there's a set of books on someone's shelf
15 that has everything that's ever been done with this
16 plant. And it's readily available to the inspectors
17 or the NRR reviewers. And you know, they'll get the
18 answer.

19 And we know it's not that cut and dry.
20 So, there needs to be some time allowed to do that
21 research so that we're not working 24 hours a day
22 during an inspection trying to get the answer at the
23 end.

24 And that's what I had meant if there's
25 another time down the process we know that we'll be

1 able to present the case. But it takes some time to
2 get through this old microfiche and other things that
3 may shed some more light on the short paragraph that
4 might be in the FSAR that has lived for 30 or 40 years
5 through umpteen inspections.

6 You know, one inspector may not have a
7 sensitivity to a certain standard that another
8 inspector may have. And then you're basically nose to
9 nose with what do we do?

10 Well, typically we say, let's go research.
11 And that should be the answer. So until we get to a
12 point where we're both satisfied we've got all the
13 documentation that's available. That it's still
14 adequate.

15 I my mind, you know, at some point you're
16 going to get an impasse. And where does the tie go
17 to. And back to the safety focus.

18 If it's a very low safety significant item
19 and the utility comes back and says that's going to
20 cost me about three and a half million dollars in two
21 days during an outage to come into compliance, but
22 it's very, very low safety significance, in today's
23 environment of risk informed, there should be an
24 avenue where we can agree that okay, I'm going to
25 write into my licencing basis, and maybe it's a

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1 license amendment. I'm not saying it won't be.

2 Maybe it's some other type of thing. But
3 I can write in my licensing basis as unclear. The tie
4 goes to the very low safety significant. No action
5 required.

6 If an event happens. In the unlikely
7 event that that comes back to be the cause, at least
8 you can go back and say oops, you know. But, very
9 unlikely that it -- an event will occur because of
10 that one little item.

11 And in today's environment to me, you
12 know, it seems like with our risk informed knowledge
13 and the direction we're going into that maybe
14 something that we can come up with. It kind of goes
15 along with the low safety significant compliance issue
16 that Bill Dean's been working on for a while.

17 And maybe that's another, you know,
18 feather in that cap.

19 CHAIRMAN HACKETT: Good feedback. Thanks
20 Greg. I guess I would also focus, I think Len rightly
21 focused us on the importance of the Branch Chiefs in
22 this equation. And not just there. But in so many
23 things we do at the NRC.

24 So, another subject that everyone in the
25 room will be familiar with is RAIs. And you know,

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1 RAIs and RAI discipline has been a constant back and
2 forth between the NRC and the industry for years and
3 years.

4 And really, the buck stops for us with the
5 Branch Chiefs are supposed to be exercising that
6 discipline and making sure there's a safety nexus to
7 that questioning. Just like Len is saying the
8 Regional Branch Chief, you know, has the cadre of
9 inspectors should be enforcing the same sort of thing
10 and backfitting space with their inspectors.

11 That's where it really -- that's where it
12 really starts. Okay. Jerry, please.

13 MR. BONANNO: Jerry Bonanno from NEI.
14 Just to --

15 CHAIRMAN HACKETT: Oh, I'm sorry. There
16 we go.

17 MR. BONANNO: Okay. Jerry Bonanno from
18 NEI. So I just wanted to start off by again saying
19 thanks for all the work.

20 A pretty eventful fourth quarter last year
21 with respect to developments in this area. So we
22 appreciate you all trying to incorporate that into
23 your response to the EDO.

24 I think, you know, what we've rightly been
25 talking about so far is kind of one of the harder

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1 problems to deal with. Which is, you know, how do you
2 get at this issue kind of at the source with facility
3 specific backfits?

4 I mean, that's a much more difficult
5 question in my mind then, you know, on the generic
6 side, have we addressed this stuff? Because I think
7 we have pretty well established processes on the
8 generic end to get involved.

9 But, one comment on the more generic side
10 of the house is, you know, one of the issues that I
11 saw discussed was, you know, how if the CRGR's going
12 to be more transparent and do more kind of interactive
13 work with the public or stakeholders, you know, how do
14 you get issues raised at the right time so that the
15 CRGR understands that there's actually, you know,
16 concern out there on a backfitting issue or another
17 issue?

18 So, I just wanted to, you know, point out
19 that. I think there's probably a term for a process
20 already in the CRGR charger. There was some language
21 added, I think, in 2010 or in the 2011 update that
22 talked about, you know, stakeholders being able to
23 kind of raise concerns that aren't resolved at the
24 public comment phase.

25 It's not really fully developed, I don't

1 think in the charter. I think that idea could be
2 developed further on the generic end to help kind of
3 flag issues for you all. So that, you know, you can
4 have an opportunity to reach out.

5 The other comment I had, or question was,
6 again, on the generic end, as far as
7 institutionalizing the lessons learned from last year,
8 and some of the changes, there's a pretty broad effort
9 going on to revise the cost benefit guidance and
10 NUREG/BR-0058.

11 So, I was at an ACRS Subcommittee meeting
12 a few weeks ago on that. And what I think I took from
13 that meeting was that the efforts to update the
14 backfitting guidance in 1409 was going to be kind of
15 split off from that broader 0058 effort. And pursue,
16 you know, by the staff separately.

17 Which I think is, -- is we thought was a
18 good idea. I think the two different -- the documents
19 addressed two different aspects of backfitting.

20 So, I guess my question is, or the comment
21 would be just, you know, we're obviously pretty
22 interested in that revision to 1409. So, you know,
23 the sooner you all can get out for stakeholder
24 involvement on that, from our perspective, I think the
25 better.

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1 And I was just wondering if I could get an
2 idea if any of you all could give me an idea of where
3 you are with that effort. And you know, time wise and
4 how things are progressing.

5 CHAIRMAN HACKETT: Sure. I don't know if
6 we want to put Tim on the spot? If you're able to
7 comment on that.

8 MR. REED: Hi. This is Tim Reed from NRR.
9 I'll just give a snapshot right now. And we're
10 working that issue right in NUREG 1409 as well as the
11 management directive.

12 Trying to separate out those two kind of
13 documents and, you know, fix what you can. Draw a
14 bright line between backfit and reg analysis. They
15 are different.

16 And but we've just started working that
17 issue. We're working actually ahead of the, you know,
18 the plan being sent to the EDO. We're trying to work
19 ahead of that and get it out there. And we know
20 there's interest.

21 So I can say right now, it's a challenge
22 because we're building in some of this, the compliance
23 stuff that you heard today is being built into that.
24 As well as like taking a stab at more defined guidance
25 in other areas. Also see where that goes.

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1 So, we're -- that's a real snapshot right
2 now. But I can't give you a specific time frame at
3 this point.

4 MR. BONANNO: I think that's -- it's
5 helpful.

6 MR. REED: Is that helpful?

7 MR. BONANNO: I mean, I think we were just
8 -- the issues are, you know, from my point of view
9 anyway, and 1409 are kind of the more policy, you
10 know, backfit identification. How to use the
11 exceptions.

12 MR. REED: Yes.

13 MR. BONANNO: I always looked at 0058 and
14 the technical guidance in 0184 as, you know, how to do
15 the analysis kind of once you get there.

16 MR. REED: I agree.

17 MR. BONANNO: So, I think it's good that
18 those two efforts are -- I think there's two different
19 sets of expertise to look at. There's two different
20 sets of things.

21 MR. REED: There's a lot of confusion
22 between reg analysis, which is a great decision making
23 tool. Or, you know, a problem with all different
24 kinds of solutions and cost benefits that cover all
25 the costs all the time, you know, that kind of deal.

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1 That's a great tool. But backfit's a
2 tougher standard. You know, especially you know, you
3 have to have safety addition protection.

4 MR. BONANNO: Right.

5 MR. REED: And then given that, then you
6 know, then direct costs. Right. So, there's a lot of
7 -- I think where we need to try to make that a little
8 clearer as it states in between. Because there's a
9 lot of confusion there.

10 Keep the documents separate. Going into
11 some of this more detailed guidance as to how to
12 invoke these exceptions under 51.0985.

13 So we're working on that. But it's going
14 to take a lot of interaction with the different
15 offices. We're trying to make that across that just
16 5109. We're trying to go to the other licensees in
17 Part 76 and 70.

18 And so that's -- it's going to be a
19 challenge. And basically all the offices that are
20 involved, you've got the CRGR involved. So, that's
21 the problem where I have, you know, how's that go?
22 And where can we get your guys involved and benefit
23 the process the best?

24 CHAIRMAN HACKETT: I think it's probably
25 fair to say then that we'll consume a good chunk of

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1 2017 at least to -- and possibly beyond?

2 MR. REED: Yes. But, I think that to the
3 extent we can, is that we're going to try to implement
4 this now. Right now. I mean, that's -- and we are
5 definitely taking that to heart.

6 You know, this comment before, it's --
7 yes, the compliance ideas and everything. We're
8 trying to do that right now. And so, we're not
9 waiting for the document yet. Because we know clearly
10 some of this stuff is real good. Right. And so we
11 need to use it.

12 But, yes, working out some of those
13 details may take a while. So, there's that -- I know
14 of the series is yours really the -- what do you guys
15 think of that?

16 MR. WEST: I understand. It wasn't said
17 directly by Tim Ross. But we have had meetings
18 between CRGR members and the staff that are working on
19 those documents. Including staff in the EDO's office.

20 So we're already talking about a lot of
21 these concepts we mentioned today as we went through
22 our status with them. And making sure we're all kind
23 of starting from the same page.

24 So, and that coordination we'll continue
25 throughout the process. And we will be looking at

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1 opportunities for stakeholder engagement/involvement.
2 And we specifically talked about that.

3 Although I can't tell you exactly when
4 they are. But it is in our planning.

5 CHAIRMAN HACKETT: Okay. Thank you. And
6 Jerry, I'd also mention to your first comment, which
7 kind of goes to, what is the entree for you guys to
8 raise these types of concerns with us?

9 And I think I'd go back to that slide
10 where we'd say, you know, multiple levels. Obviously
11 raising it with the CRGR, with, you know, the
12 Chairman, with Les, with the regulatory office.
13 Obviously including the Director of the office or the
14 folks that you're interacting with on the specific
15 issue.

16 I think to raise it at any of those levels
17 is fair.

18 MR. BONANNO: Okay. I just had one more
19 thought. And I -- I'll be the one that over
20 simplifies this really hard question on the facility
21 specific and the inspection space and things.

22 I guess my only comment is to kind of get
23 at some the stuff that Greg and Joe were talking
24 about. And you guys have pointed this out in your
25 materials.

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1 Don't -- I guess, don't overlook the point
2 of contact idea. Whether it's the Branch Chief or
3 somebody that has, you know, an elevated level of
4 training and awareness of the backfitting piece, you
5 know, in the Region. Or, you know, it could be the
6 Branch Chief in the Region.

7 But, it kind of gets to Greg's point where
8 you want to be able to kind of flag these issues at
9 the Regional level. But have somebody who's really
10 sensitive to them kind of on the other end that has
11 that kind of extra level of training.

12 So, I think that's a great concept. It
13 doesn't completely solve the problem. But I think
14 it's probably an essential piece of the solution.

15 MR. WERT: So, my comment back to that is
16 that I think we understand the value of wanting kind
17 -- the example I would use is the NOED process. That
18 process, you know, in a Regional office might only be
19 enacted like once every six months. Maybe even once
20 a year.

21 But every time we have that call, we have
22 the NOED expert on the line. And they help us, guide
23 us through that process. And invariably questions
24 come up. And that person's able to tell us right
25 there on the spot, nope. This is the way we do it.

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1 And this is why.

2 So, that's kind of the model that I would
3 envision that we would use for some of these
4 processes.

5 MR. BONANNO: Excellent. Thank you.

6 CHAIRMAN HACKETT: Good point. Thanks
7 Jerry. Thanks Len. Anybody else in the room?

8 (No response)

9 CHAIRMAN HACKETT: If not I guess we would
10 turn to the operator to open the line for any
11 questions from folks on the line.

12 OPERATOR: Thank you. We will now begin
13 a question and answer session. If you'd like to ask
14 a question, please press star one and record your name
15 clearly.

16 And please for the first question -- our
17 first question comes from Dave. Your line is open.

18 MR. LOCHBAUM: Hi. This is Dave Lochbaum
19 with Union of Concerned Scientists. I have a comment
20 related to something Ed spoke of about training and
21 knowledge management.

22 I always found that NUREG-1022 on report
23 ability under 10 CFR 50.72 and 50.73 was a very
24 helpful tool in trying to figure out what gets
25 reported and what does not need to be reported.

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1 If CRGR or if the NRC had something like
2 that to both explain what goes into the backfit
3 process and what does not for whatever reason, I think
4 those antidotes would help people -- guide people to
5 the right outcomes.

6 That's all. Thanks.

7 CHAIRMAN HACKETT: Thanks Dave.

8 OPERATOR: And we have no further
9 questions at this time.

10 CHAIRMAN HACKETT: Okay. Thank you. I
11 guess we'll make one more go around in the room. Or
12 if any of the CRGR members have any other comments.

13 (No response)

14 CHAIRMAN HACKETT: Okay. I guess hearing
15 none we've over achieved again. So, that's a good
16 thing.

17 And just want to summarize by thanking
18 everyone again. We've gotten -- you know, this
19 meeting I think we -- I think there were a couple of
20 good insights I think we've gleaned from this meeting.
21 But they built on what we had already had heard
22 previously.

23 So, I think this has been particularly
24 helpful to us. And you know, we'll go forward with
25 our next steps.

1 And if there's any feedback that anybody
2 either in the room or on the line wishes to send to
3 us, you can send that to Nick DiFrancesco or Les
4 Cupidon. That would be appreciated. Either by email
5 or in writing in some other form. We'd appreciate
6 that too.

7 Otherwise, if there's no other comments,
8 we're adjourned. Thank you.

9 (Whereupon, the above-entitled matter went
10 off the record at 2:13 p.m.)

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