

10 CFR Part 70 Backfit Guidance

(NMSS Policy & Procedures Letter 1-82)

Background – New Part 70

- Unique Regulation – Performance requirements for high and intermediate consequence events & criticality, “Items Relied On For Safety”, ISA Summary, baseline design criteria.
- Subpart H: risk informed.
- Subpart H applies to:

Scope of Part 70

- Part 70 covers licensing of Special Nuclear Materials (SNM) for licensees authorized to own, deliver, receive, possess, use, or transfer of SNM.
- Uranium processing, fuel fabrication, uranium enrichment*, UF_6 conversion, Pu processing, MOX, scrap recovery.

Applicability of Part 70

- All subparts are currently in force except Subpart H, for licensees authorized to possess a greater than critical mass (CM) of SNM.
- Subpart H does not apply until ISA Summary submitted or no later than October 18, 2004.
- Backfit protection for licensees with greater than a CM of SNM does not start until 1) this PPL is issued and 2) their ISA Summary is approved.
- Backfit protection for licensees with a CM or less than a CM of SNM starts as soon as this PPL is issued.

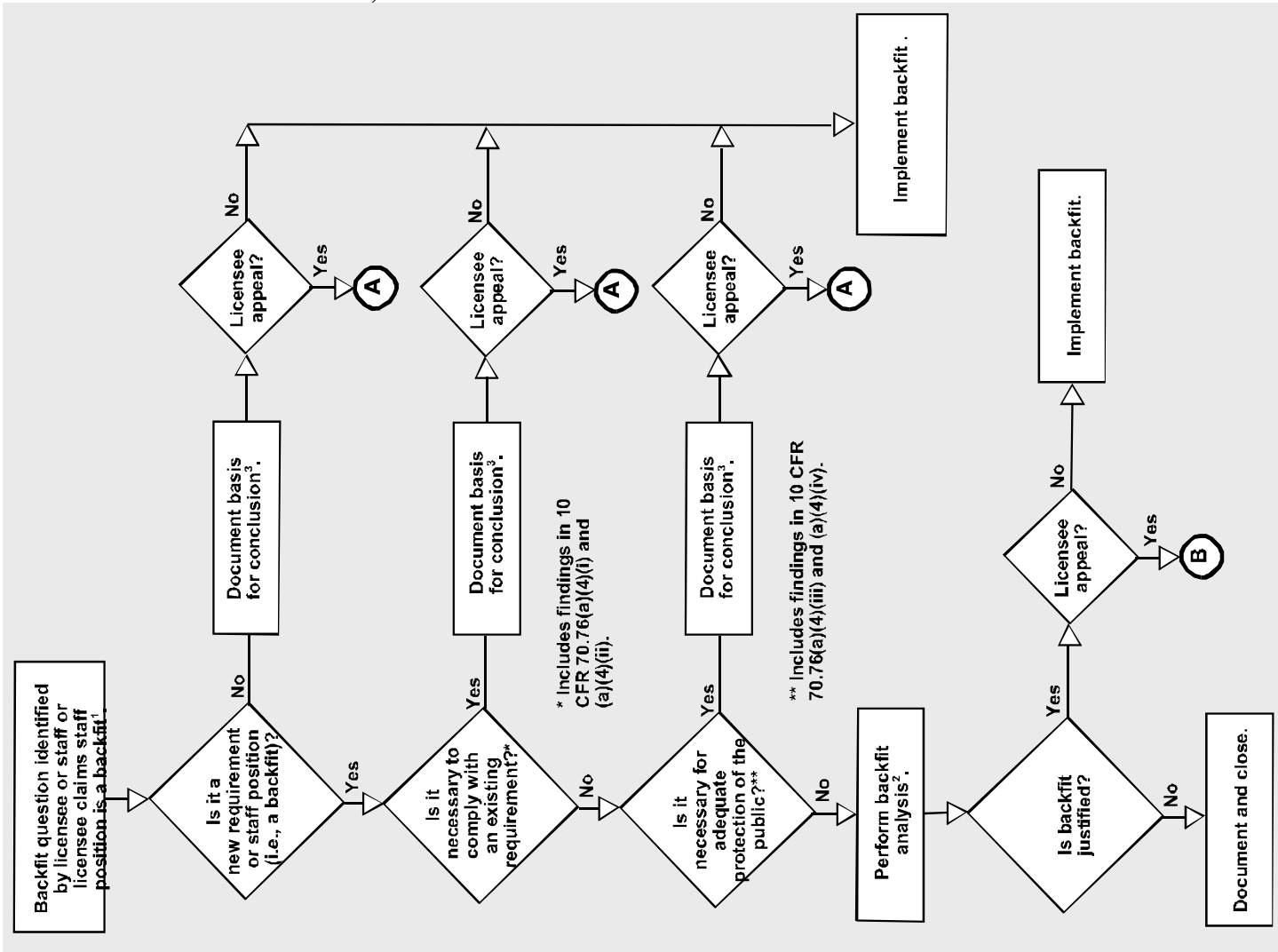
Purpose of the PPL 1-82

- Provide to NRC staff (and industry) guidance for backfits of Part 70 licensed facilities (backfit not effective until issuance of “staff guidance”).

Description of PPL 1-82

- Guidance derived from backfit guidance of MD8.4 and PPL 1-53 for §76.76 (GDPs) and adapted for Part 70 (NMSS/FCSS).
- Adaptations included extensive use of appendices, flowcharts, graphics, and examples (utilizing plain language per SECY-98-089, DSI 14).
- Issued for stakeholder comment in June 2003.

Part 70 Backfit Process Flow



Stakeholder Comments

- Internal comments from NMSS, CRGR, NSIR, NRR/DRIP, RGN II, & OGC
- One external commenter – NEI generally supported this PPL. Had extensive comments both positive and negative.
- Specific examples – next page

Stakeholder Comments (NEI)

- NEI: “it assures that any new regulatory burdens imposed...have been supported by a cost-benefit study that demonstrates...costs of implementation...are more than offset by a substantial increase provided in the overall protection of public health and safety.”
- NEI also did have numerous changes.

Stakeholder Comments (cont.)

- A - Items Relied of For Safety (IROFS) (11).
- A - Discuss partial submission of ISA Summaries (7 & 14).
- A - Case studies or examples (46).
- A - Numerous other style and editorial changes and clarifications.
- D - Expand guidance for “generic backfits” (11 & 12).
- D - Definition of “applicable staff position” (12), “overall” protection (16), & “justified costs” (17).
- D - Quantitative definitions of “substantial increase” (15).
- D - Tacit Approval (27).
- D - Overuse of compliance exception (37).

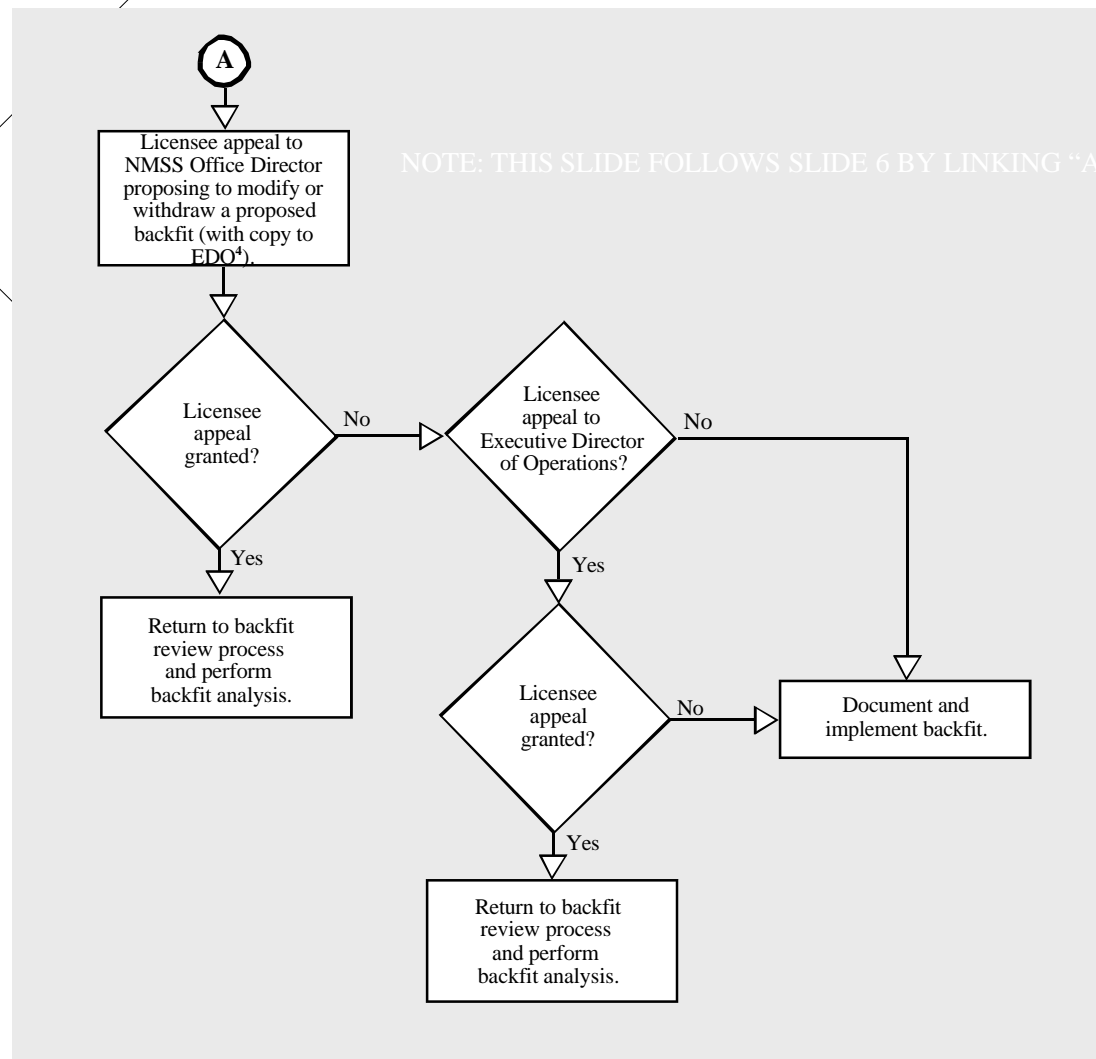
Comment Resolution

- NMSS believes that the changes made to this PPL, although extensive, are still 1) consistent with MD 8.4 and PPL 1-53, and 2) are appropriate for the regulation and intended use.

“The Future”

- Receive/incorporate CRGR comments.
- Issue Federal Register notice of final availability of PPL 1-82 by end of March 2004.
- Revise as necessary to reflect changes to MD 8.4.

Backup Slide 1 - Appeals



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03/10/2004

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Backup Slide 2 - Regions

- Regions do inspections; identify issues
- Licensing (HQ) handles backfit
- Region II commented on guidance
- No planned formal training
- Status calls 2 per week; PMs are plant focal points for agency.