



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

July 13, 1982

NOTE TO: Deborah Bozik, HEBR
Norman L. McElroy, OPBR

FROM: John F. Klucsik, OGC *JFK*

SUBJECT: NEED FOR EXEMPTION FROM § 20.105
IN PROPOSED § 35.75

You have asked whether the proposed Part 35 requires an exemption from and a conforming change to § 20.105. Other portions of Part 20 make an exemption and conforming amendment unnecessary.

The proposed § 35.75 would require that medical licensees not authorize the release of radioactive patients until the exposure rate from the patient is less than 5 milliroentgens per hour at a distance of one meter. Section 20.105 provides that no licensee shall use or transfer byproduct material (except in accordance with specific license conditions) if the use or transfer results in a radiation level of 2 millirem per hour in an unrestricted area.

The administration of byproduct material to a patient is a use or transfer of byproduct material. The administration of byproduct material to a patient may result in radiation levels greater than 2 millirem per hour in unrestricted areas if:

- 1) the source is of high enough activity; and
- 2) the licensee cannot guarantee the patient's confinement

Under these conditions, administration of byproduct material to a patient would be prohibited by § 20.105 unless another regulation exempts such administration from the operation of § 20.105. Section 20.107 does this. It provides that nothing in Part 20 shall be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical diagnosis or medical treatment.

Since § 20.107 removes administration of byproduct material to patients from the scope of § 20.105 (at least as regards administration to patients who subsequently leave

confinement against medical advice), no exemption from § 20.105 is needed in the proposed revision of Part 35. Neither is any conforming amendment needed.

If possible, you should conform the units of radiation dose used in the proposed § 35.75 (milliroentgens) with those used in § 20.105 (millirems). You may wish to explain in the preamble the choice of 5 milliroentgens in § 35.75 in contrast with the 2 millirem standard of § 20.105.