March 28, 2002

COMSECY-02-0014

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: RE-AFFIRMATION OF THE FINAL RULE ON PART 35 -- MEDICAL USE OF BYPRODUCT MATERIAL

The final rule on Medical Use of Byproduct Material (Part 35) was affirmed by the Commission on October 23, 2000. Publication of the final rule has been delayed based on direction from Congress not to implement or enforce certain parts of the rule until after the NRC submitted a report to Congress explaining why the regulatory burden associated with the rule could not be reduced further without adversely affecting the public health and safety. The NRC submitted the report to Congress on February 11, 2002. Subsequently, as briefed to the Technical Assistants, the staff is recommending that the final rule be revised to include Subpart J, Training and Experience Requirements, as was included in the proposed rule.

The pages of the *Federal Register* notice (FRN) which contain the major changes to the Statement of Consideration and the Final Rule are attached. The remaining pages of the FRN are available in SECY and will be provided if requested. Additional conforming changes have been made throughout the FRN.

The Commission is requested to vote on the attached revision to Part 35. Once all votes are received, an affirmation session will be scheduled for the Commission to re-affirm the final rule prior to publication.

Attachment: Changes to the FRN on the Final Rule on Part 35

cc: EDO
OGC
CFO
OCA
OIG
OPA