

SEP 9 1986

MEMORANDUM FOR: Robert L. Fonner  
Office of the General Counsel

FROM: C. James Holloway, Jr., Director  
License Fee Management Staff, ADM

SUBJECT: MARINE BIOLOGICAL LABORATORY'S REQUEST FOR AN  
EXEMPTION FROM FEES

Enclosed is a copy of our March 5, 1986 memorandum requesting an interpretation of 170.11(a)(4) as it relates to Marine Biological Laboratory's October 2, 1985 request for an exemption from fees for Materials License 20-00595-02 and -06. Also enclosed are copies of the attachments to our memorandum and a copy of Ron Smith's reply. In a subsequent meeting regarding this case, you requested that we provide copies of additional correspondence with similar licensees which document our policy in applying the exemption.

Although an extensive search of other license files did not reveal a situation that exactly parallels the Marine Biological Laboratory case, several similar cases were found. (Note that it is not clear from the license documents whether the research authorized is for "medical purposes". If radioactive material is not used in or on humans, the fact of whether it is for "medical purposes" is of no importance to the licensing staff. For their purposes, research is research and no further distinction is made.) Enclosed are copies of documents from these additional cases pertaining to our criteria for exempting educational institutions under 170.11(a)(4). In some cases, letters were sent stating our interpretation of the exemption; in other cases, licenses were classified as subject to fees under Part 170 based on information in the application and/or the license which indicated that the use of licensed material was not limited to teaching and training of students.

In their December 24, 1985 letter, Marine Biological Laboratory states their belief that the exemption in 170.11(a)(4) for medical purposes must refer to medical research. They further contend that the phrase "medical purposes" has no intent if the exemption was not intended to apply to radioisotope use that does not involve the teaching and training of students. We recognize that the phraseology of the exemption may leave doubt as to the intent of the term "medical purposes". However, as evidenced by the enclosed documents, we believe that a policy has been firmly established that the exemption for "medical purposes" applies only when the medical research involves the teaching and training of students.

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In his March 31, 1986 memorandum, Ron suggests that we could grant Marine Biological Laboratory an exemption under 170.11(b)(1) based on the fact that their medical research "is in the public interest". It appears that the research conducted by the University of Health Sciences/The Chicago Medical School, the University of New England College of Osteopathic Medicine, and Case Western Reserve University (see License Nos. 12-02193-03, 18-20522-01, and 34-00738-04, copies enclosed) could also be construed to be in the public interest. However, this criteria has not been used to grant exemptions to these institutions, and, because their research is not limited to the teaching and training of students, these licenses are subject to fees under 10 CFR 170. In addition, licenses issued to organizations such as the American Red Cross, The Michigan Cancer Foundation, and the Harlan E. Moore Heart Research Foundation are subject to fees under Part 170.

We are enclosing the additional documents which you requested. If you require any additional information, please let us know.

Sincerely,

*[Handwritten signature]*

C. James Holloway, Jr., Director  
License Fee Management Staff  
Office of Administration

Enclosures:  
As stated

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Exemption Fee File  
GJackson  
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