



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

May 1, 2006

Dan Dwyer, Ph.D.  
Vice President for Research and Development  
The University of Montana  
Building 32  
Missoula, Montana 59812

SUBJECT: NRC INSPECTION REPORT 030-00872/2006-001 AND NOTICE OF VIOLATION

Dear Dr. Dwyer:

This refers to the inspection conducted during March 27-30, 2006, at the University of Montana-Missoula campus, The University of Montana Biological Station on Flathead Lake, and The University of Montana facilities at the Saint Patrick Hospital and Health Sciences Center. Preliminary inspection findings were discussed with Mr. Dan Corti, Ms. Kay Altenhofen, and Dr. Tony Rudbach at the conclusion of the onsite inspection. The inspection results were also discussed with Mr. Corti, Ms. Altenhofen, Dr. Keith Parker, and you during a final telephonic exit briefing conducted on April 25, 2006.

This inspection was an examination of activities conducted under your license as they relate to radiation safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, independent measurements, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. This violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it is described in detail. The violation is being cited in the Notice because it was identified by the NRC during the inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions concerning this inspection or the enclosed report, please contact Janine F. Katanic, Ph.D. at (817) 860-8151 or the undersigned at (817) 860-8287.

Sincerely,

*/RA/*

Mark R. Shaffer, Chief  
Nuclear Materials Inspection Branch

Docket No.: 030-00872  
License No.: 25-01706-03

Enclosures:

1. Notice of Violation
2. NRC Information Notice 96-28

cc w/Enclosure 1:  
Montana Radiation Control Program Director

Dan Corti  
Radiation Safety Officer  
The University of Montana  
Building 32  
Missoula, Montana 59812

bcc w/enclosure 1 (via ADAMS distrib):

LDWert

CLCain

MRShaffer

JEWhitten

JFKatanic

KEGardin

NMIB

RIV Materials Docket File (5<sup>th</sup> floor)

SUNSI Review Completed: JFK ADAMS: X Yes  No Initials: JFK

X Publicly Available  Non-Publicly Available  Sensitive X Non-Sensitive

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RIV:DNMS:NMIB	C:NMLB	C:NMIB
JFKatanic	JEWhitten	MRShaffer
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04/25/06	04/26/06	05/01/06

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## ENCLOSURE 1

### NOTICE OF VIOLATION

The University of Montana  
Missoula, Montana

Docket No. 030-00872  
License No. 25-01706-03

During an NRC inspection conducted during March 27-30, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 25. of byproduct materials license, requires, in part, that the licensee shall conduct its program in accordance with license application dated May 16, 2005. Item 8.10.6 of the license application, "Safe Use of Radionuclides and Emergency Procedures" specifies, in part, that the licensee will adopt the procedures for the safe use of radionuclides and emergencies as published in Appendix R of NUREG-1556, Volume 11, Program Specific Guidance About Licenses of Broad Scope.

Appendix R of NUREG-1556, Volume 11, dated April 1999, describes, in part, general topics for the safe use of radioisotopes. Appendix R of NUREG-1556 Volume 11 specifies, in part, that each laboratory or area where radioactive material is used or stored should have general rules, so that workers know what is required. Typical instructions should include, but are not limited to: (1) do not eat, drink, smoke, or apply cosmetics in any area where licensed material is used or stored, and (2) do not store food, drink, or personal effects in areas where licensed material is used or stored.

The licensee did not directly adopt the procedures for the safe use of radionuclides and emergencies as published in Appendix R of NUREG-1556 Volume 11. Instead, the licensee implemented its Radiation Safety Manual, which was updated in January 2006. Under the section entitled "General Laboratory Rules for the Use of Radioactive Materials," the licensee's Radiation Safety Manual specifies, in part, that the general rules will apply in all laboratories and to all personnel using laboratories where radioactive materials are used or stored. General rule A. of the Radiation Safety Manual specifies that absolutely no smoking, eating, drinking, or using of cosmetics will be allowed.

Contrary to the above, personnel were observed to be eating, drinking, storing food, drinks, and personal effects in laboratories or areas where licensed radioactive material was used or stored. Specifically, several laboratories in the Skaggs, Science Complex, and Health Sciences buildings were posted as locations where radioactive materials were used or stored and were observed to have routine use of licensed radioactive materials. Various laboratory personnel were observed to be eating and drinking in several of these laboratories where licensed radioactive material was used or stored. Additionally, food, such as containers of cookies, and drinks, such as bottles of drinking water, were observed to be stored in these laboratories. Furthermore, personal effects, such as eating utensils, bowls, coffee cups, food and drink storage containers, a microwave oven for food preparation, and an espresso machine, were observed to be stored in these laboratories.

This is a Severity Level IV violation (Supplement IV).

Pursuant to the provisions of 10 CFR 2.201, The University of Montana is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, at 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 1<sup>st</sup> day of May 2006