



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
REGION IV  
1600 E. LAMAR BLVD.  
ARLINGTON, TX 76011-4511

May 12, 2015

Dr. Cornelius J. Van der Schyf  
Vice President for Research  
Idaho State University  
Office for Research  
921 S. 8<sup>th</sup> Avenue, Stop 8130  
Pocatello, Idaho 83209-8130

SUBJECT: NRC INSPECTION REPORT 030-38726/2015-001 AND NOTICE OF VIOLATION

Dear Dr. Van der Schyf:

This refers to the inspection conducted on February 11, 2015, at the Idaho Accelerator Center in Pocatello, Idaho. The inspection continued with in-office reviews until April 23, 2015. The inspection was an examination of activities conducted under byproduct material license 11-27380-04 as they relate to safety, security, and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of observations of facilities, independent radiation measurements, selected examination of procedures and representative records, and interviews with personnel. At the conclusion of the onsite portion of the inspection, the preliminary inspection findings were discussed with Dr. Howard Grimes, former Vice President for Research, and other licensee representatives. A telephonic exit briefing was conducted with you and other licensee representatives on April 27, 2015. A re-exit briefing was conducted with Mr. Peter Farina, the Idaho State University Radiation Safety Officer, on May 12, 2015, to communicate a change in one of the violations.

Based on the results of this inspection, the NRC has determined that three violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy, which can be found at the NRC's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html). The violations are described in the enclosed Notice of Violation (Notice), and are being cited because they were identified by the NRC during the inspection. The first violation involved the failure to comply with License Condition 22 when making program changes and changes to procedures. The second and third violations each involved a failure to comply with US Department of Transportation regulations.

You are required to respond to this letter and must follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. 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 enclosure, 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's 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, please contact Dr. Janine F. Katanic, CHP, at (817) 200-1151 or the undersigned at (817) 200-1130.

Sincerely,

*/RA/*

G. Michael Vasquez, Chief  
Nuclear Materials Safety Branch-A

Docket No.: 11-27380-04  
License No.: 030-38726

Enclosure:  
Notice of Violation (Notice)

cc w/enclosure:  
Mr. Peter Farina  
Radiation Safety Officer  
Idaho State University  
Technical Safety Office  
921 S. 8<sup>th</sup> Avenue, Stop 8106  
Pocatello, Idaho 83209-8106

Idaho Radiation Control Program Director

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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's 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.

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Mr. Peter Farina  
Radiation Safety Officer  
Idaho State University  
Technical Safety Office  
921 S. 8<sup>th</sup> Avenue, Stop 8106  
Pocatello, Idaho 83209-8106

Idaho Radiation Control Program Director

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DATE	4/ 29 /2015	5/ 12 /2015		

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## NOTICE OF VIOLATION

Idaho State University  
Pocatello, Idaho

Docket: 030-38726  
License: 11-27380-04

During the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on February 11, 2015, with continued in-office review through May 12, 2015, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 22 of NRC License 11-27380-04 requires, in part, that the licensee is authorized to make program changes and changes to procedures specifically identified in license application dated March 17, 2014, which were previously approved by the NRC and incorporated into the license, without prior NRC approval, as long as: (A) the proposed revision is documented, reviewed, and approved by the licensee's Radiation Safety Committee (RSC) in accordance with established procedures prior to implementation; (B) the revised program is in accordance with the regulatory requirements, will not change license conditions, and will not decrease the effectiveness of the Radiation Safety Program; (C) the licensee's staff is trained in the revised procedures prior to implementation; and (D) the licensee's audit program evaluates the effectiveness of the change and its implementation.

Contrary to the above, the licensee made program changes and changes to procedures specifically identified in license application dated March 17, 2014, which were previously approved by the NRC and incorporated into the license, without following the requirements in License Condition 22. Specifically, two examples of the licensee's failure to comply with License Condition 22 were identified as follows:

1. License application dated March 17, 2014, Section 8.7.1(b) states, in part, that the RSC Chair shall call a meeting of the RSC at least quarterly and additionally whenever deemed and that the RSC meets not less than once per calendar quarter. During the September 4, 2014, RSC meeting, the RSC voted to change the language from "not less than once per calendar quarter" to "not less than four (4) times per calendar year" and to change "quarterly" to "four (4) times per year." This change would decrease the effectiveness of the radiation safety program.
2. License application dated March 17, 2014, includes several procedures related to licensed activities. At least three of these procedures were revised and implemented without RSC review and approval, including: (1) IAC OP-48-01, Operation of the 48 MeV Accelerator, Revision 2, dated January 9, 2015; (2) IAC OP-48-02, Operation of the 48 MeV Accelerator Target Handling System, Revision 2, dated February 3, 2015; and (3) IAC RP-07-004, Verification of Operation Radiation Detection Equipment, Revision 2, dated January 22, 2015.

This is a Severity Level IV violation (Section 6.3.d).

- B. License Condition 18 of NRC License 11-27380-04 states that the licensee is authorized to transport licensed material only in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material." 10 CFR 71.5(a) requires, in

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part, that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the US Department of Transportation (DOT) regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 173.422 requires in part, that for an excepted package of Class 7 material that is prepared for shipment under 49 CFR 173.421, the training requirements of 49 CFR 172 Subpart H shall be met. 49 CFR 172.704(c)(2) requires, in part, that a hazmat employee must receive the training required by Subpart H at least once every three years.

Contrary to the above, on at least four occasions between July 3, 2014, and February 11, 2015, a licensee hazmat employee transported excepted packages of Class 7 material and the individual did not have recurrent training in accordance with 49 CFR 172 Subpart H.

This is a Severity Level IV violation (Section 6.8.d.).

- C. License Condition 18 of NRC License 11-27380-04 states that the licensee is authorized to transport licensed material only in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material." 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the US Department of Transportation (DOT) regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 173.448(a) requires, in part, that each shipment of Class 7 material must be secured to prevent shifting during normal transportation conditions.

Contrary to the above, on at least four occasions between July 3, 2014, and February 11, 2015, the licensee transported excepted packages of Class 7 material and did not appropriately secure the shipment to prevent shifting during normal transportation conditions.

This is a Severity Level IV violation (Section 6.8.d.).

Pursuant to the provisions of 10 CFR 2.201, Idaho State University is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., 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

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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 [www.nrc.gov/reading-rm/pdr.html](http://www.nrc.gov/reading-rm/pdr.html) or [www.nrc.gov/reading-rm/adams.html](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(a)(4), you may be required to post this Notice within two working days.

Dated this 12<sup>th</sup> day of May 2015