



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

March 14, 2012

Docket No. 03035749
EA-12-055

License No. 06-30647-01

Robert Neff, D.V.M.
Radiation Safety Officer
Fairfield Equine Associates, P.C.
32 Barnabas Road
Newtown, CT 06470

SUBJECT: NRC INSPECTION REPORT NO. 03035749/2012001, EXERCISE OF ENFORCEMENT DISCRETION; FAIRFIELD EQUINE ASSOCIATES, P.C., NEWTOWN, CONNECTICUT SITE

Dear Dr. Neff:

On February 16, 2012, Dennis Lawyer of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in the telephone conversation on February 23, 2012, between Traci Oliveria and this office and between you and this office on February 27, 2012, and March 6, 2012, was also examined as part of the inspection. The findings of the inspection were discussed with you at the conclusion of the inspection.

During the inspection we confirmed that you possess a cobalt 57 sealed source. You were informed during the inspection that the regulation of cobalt 57 was transferred to the NRC from the State of Connecticut. This change occurred with the enactment of the Energy Policy Act of 2005 (Act), which became effective on November 30, 2007. The waiver for the State of Connecticut expired on August 7, 2009, when the NRC took over jurisdiction for the regulation of Naturally Occurring and Accelerator Produced Radioactive Material, which includes cobalt 57. You indicated that Fairfield Equine Associates, P.C. was unaware that the NRC had jurisdiction.

Based on the results of this inspection, the NRC has determined that one violation of NRC requirements occurred. This violation involved 10 CFR 30.34(c) which requires, in part, that each licensee confine its possession and use of byproduct materials to the locations and purposes authorized by the license. Condition 6 of your license requires that licensed material be technetium 99m or cesium 137. Contrary to this requirement, Fairfield Equine Associates, P.C. received and possessed a 5.77 millicurie cobalt 57 source on March 31, 2011, a material not authorized by the license.

This violation would normally be categorized at Severity Level IV; however, in accordance with NRC Enforcement Guidance Memorandum (EGM) 09-004, dated May 13, 2009, the NRC will exercise discretion and not issue a violation. The NRC's decision is based on the criteria listed in EGM 09-004. Specifically, 1) this was the first occurrence involving Fairfield Equine

Associates, P.C. after August 7, 2009, the effective date of the requirement; 2) the failure did not result in an actual safety, health, or security consequence; 3) the failure was not willful; and 4) Fairfield Equine Associates, P.C. was unaware of the requirement. Additionally, you agreed to submit a request for a license amendment to add the cobalt 57 to your license within 30 days. The request for the license amendment was received in the Region I office on March 1, 2012.

On March 6, 2012, Dennis Lawyer of my staff informed you by telephone of the exercise of discretion by the NRC. In the future, should Fairfield Equine Associates, P.C. want authorization to possess byproduct material that is not listed on your license, Fairfield Equine Associates, P.C. must submit a license amendment request to the NRC and receive authorization prior to acquiring the licensed material.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

No reply to this letter is required. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC document system (ADAMS), accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>. To the extent possible, any response should not include any personal privacy, proprietary, or Safeguards Information so that it can be made available to the Public without redaction.

Please contact Dennis Lawyer at 610-337-5366 if you have any questions regarding this matter.

Thank you for your cooperation.

Sincerely,

/RA/

Raymond K. Lorson, Director
Division of Nuclear Materials Safety

cc:
State of Connecticut

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/RA/

Raymond K. Lorson, Director
Division of Nuclear Materials Safety

CC:

State of Connecticut

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