



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

June 30, 2015

Mr. John W. Sullivan
33 Chartley Brook Lane
Attleboro, MA 02703

Dear Mr. Sullivan:

This letter is in response to your May 16, 2015, letter regarding the Finberg Field radium site in Attleboro, Massachusetts. In your letter, you posed questions regarding the regulatory oversight of the radium 226 (Ra-226) sources buried at Finberg Field.

Prior to the passage of the Energy Policy Act of 2005 (EPAAct), the U.S. Nuclear Regulatory Commission (NRC) did not regulate Ra-226. Responsibility for the regulatory oversight of Ra-226 within the Commonwealth of Massachusetts was the responsibility of the State. With the passage of the EPAAct, Congress authorized the NRC regulatory authority over any discrete source of Ra-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the act for use for a commercial, medical, or research activity. Hence, the NRC has the jurisdiction over old landfills or disposal sites contaminated with Ra-226 due to past operations or disposal of discrete sources of Ra-226 such as Finberg Field.

The EPAAct also authorized the Commission to discontinue its regulatory authority over Ra-226 and for an Agreement State to continue to exercise regulatory authority over Ra-226 under their existing Agreement. To do so, the Governor must certify to the Commission that the State has a program to regulate Ra-226 that is adequate (as determined by the Commission) to protect public health and safety, and that the State intends to continue to regulate the material.

The Commonwealth of Massachusetts became an Agreement State in 1997. As part of the Agreement, the NRC discontinues its regulatory authority for byproduct, source and small quantities of special nuclear materials which is assumed by the Commonwealth. As required by the EPAAct, Governor Deval Patrick certified in a May 11, 2007, letter that the Commonwealth of Massachusetts had a program to effectively regulate Ra-226. In its November 30, 2007, response to Governor Patrick, the NRC determined that the Commonwealth had an adequate program to regulate Ra-226. As a result of the Commonwealth's certification and NRC's approval, the regulation of Ra-226 remained with the Commonwealth and was not transferred to the NRC. The Commonwealth would be solely responsible for the regulation and inspection of Ra-226 sources located at Finberg Field.

In 2007, the NRC finalized its regulations regarding the licensing requirements for discrete Ra-226 sources. Agreement States are required to adopt compatible regulations for these requirements. The Commonwealth adopted their compatible regulations for the licensing of Ra-226 sources in 2012.

The Commonwealth is responsible for determining if a specific license is required for the Ra-226 sources at Finberg Field. Please contact the Massachusetts Department of Public Health (MSPH), Radiation Control Program regarding the licensing requirements for Finberg Field. Please contact Mr. Jack Priest at MDPH regarding this matter. He can be reached at (617) 242-3035 or Jack.Priest@state.ma.us.

If you have any additional questions regarding this matter, please contact Mr. Duncan White of my staff. He can be reached at (301) 415-2598 or Duncan.White@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Office of Nuclear Materials Safety
and Safeguards

cc: J. Priest, MA

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Catherine Haney, Director
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OFC	DUWP	MSTR	MSTR	Tech Ed	NMSS
NAME	RChang	DWhite	JPiccone	PTressler for CPoland	CHaney
DATE	6/17/15	6/18/15	6/18/15	6/24/15	6/30/15

J. Sullivan

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