May 7, 2002

Mr. John M. Leonard
Assistant Commissioner for Environment
Department of Environment and Conservation
L & C Tower, 21st Floor
401 Church Street
Nashville, TN 37243-1530

Dear Mr. Leonard:

Thank you for your March 15, 2002, letter responding to the recommendations in the final follow-up Integrated Materials Performance Evaluation Program (IMPEP) report sent to you by letter dated February 5, 2002. We appreciate the positive actions that you and your staff have taken and are continuing to implement with regard to our recommendations. We are also pleased to see that you have been successful in hiring two experienced inspectors.

Your letter identified several issues that we have addressed below.

On page 3 of your letter, you comment on the accuracy of the text in the second paragraph on page 7 of the final report. The staff has reviewed your comments and the text and agrees that further clarification is needed to better reflect changes that were made to the individual file review comments in Appendix E of the follow-up report. The IMPEP team has modified the paragraph to close Recommendation 3 and to more accurately reflect Appendix E and the issues discussed with the Division management and staff (see Enclosure 1). The final report is being reissued with the revised paragraphs (see Enclosure 2).

On page 4 of your letter, you describe the Division actions to ensure that Tennessee staff are trained in various inspection and enforcement activities. You also state that the Division is evaluating the applicability of NRC and other State regulatory processes that may be useful. NRC staff is prepared to provide you with any information that you may need for this process. NRC enforcement information is available on the NRC web site at http://www.nrc.gov/what-we-do/regulatory/enforcement.html and the NRC Inspection Manual is available at http://www.nrc.gov/reading-rm/doc-collections/insp-manual/ (click on reactors and then either manual or procedures). Inspection Manual Chapter 2800 and Inspection Procedures 87100-87654 as listed on the NRC web site are applicable to the materials program. Other inspection procedures may also be useful to your program and can also be found at this site. If you need additional information, please contact Richard Woodruff at (404) 562-4704 or e-mail RLW@NRC.GOV).

On page 5 of your letter, you commented that the “Radiological Criteria for License Termination” was submitted as part of the previous rule package. NRC staff agrees that the Category A and B sections of the rule were addressed. However, the Category C sections have not been addressed. We apologize that this was not identified during the initial regulation review process. We ask that you please address the Category C sections in the Division’s current rulemaking activities.

Mr. Woodruff will be contacting Mr. Nanney to set up a time for the first quarterly conference call to review the Division's progress on the timeliness of inspections and the status of the rulemaking effort, as well as your continuing progress on the other recommendations.

I appreciate your continuing support of the Division of Radiological Health and look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA/

Carl J. Paperiello
Deputy Executive Director
for Materials, Research
and State Programs

Enclosures:
As stated

cc: Milton H. Hamilton, Jr.
Commissioner, Environment & Conservation

Lawrence E. Nanney
Director, Division of Radiological Health

Mr. Woodruff will be contacting Mr. Nanney to set up a time for the first quarterly conference call to review the Division's progress on the timeliness of inspections and the status of the rulemaking effort, as well as your continuing progress on the other recommendations.

I appreciate your continuing support of the Division of Radiological Health and look forward to our agencies continuing to work cooperatively in the future.

Sincerely,
/RA/
Carl J. Paperiello
Deputy Executive Director
for Materials, Research
and State Programs

Enclosures:
As stated

cc: Milton H. Hamilton, Jr.
Commissioner, Environment & Conservation

Lawrence E. Nanney
Director, Division of Radiological Health

bcc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

Distribution:

DIR RF	DCD (SP01) PDR (YES**T**)	
EDO RF		
SDroggitis, STP	RWoodruff, RII	
KSchneider, STP	JPelchat, RII	
LBolling, STP/ASPO	BHamrick, CA	
LRakovan, STP	MVirgilio, NMSS	
KCyr, OGC	DCool, NMSS/IMNS	
FCameron, OGC	GDeegan, NMSS/IMNS	
STreby, OGC	TCombs, OCA	
JLieberman, OGC	Tennessee File	**Response to Incoming Document: ML020850377**

DOCUMENT NAME: G:\IMPEP\2002 TN Follow-up Acknowledgement Letter.wpd;
G:\IMPEP\2002 TN Revised Final IMPEP Rpt.wpd

OFFICE	STP	STP:DD	STP:D	DEDMRS	
NAME	DSollenberger:kk	JMPiccone (By PHLohaus)	PHLohaus	CJPaperiello	
DATE	4/17/02*	4/17/02*	4/17/02*	05/07/02	

OFFICIAL RECORD COPY

Changes to the Tennessee Follow-Up Final Report

The IMPEP review team has revised the paragraph beginning with “An NON issued for several...” and the following paragraph on page 7 of the Tennessee final follow-up report. The replacement paragraphs are as follows:

> The review team held several discussions with management and staff on the need for clear documentation supporting the issuance of NONs. The review team also reviewed comments provided in John Leonard’s March 15, 2002 letter and agrees that clarification is needed to better reflect changes made to the individual file review comments in Appendix E. Based on this review, Recommendation 3 from the 2000 IMPEP review is closed. The inspection reports did not contain consistent documentation which caused confusion for the IMPEP team in identifying the supporting information. The review team discussed with Division management and staff the usefulness of providing additional guidance to the inspection staff on consistently documenting the supporting bases for each violation which should be included in the section of the inspection report documenting the inspector’s observations. The review team also discussed with the Division management and staff the importance of ensuring senior licensee management attend close-out meetings at the conclusion of inspections that either document a large number of violations, repeat violations, or violations that would represent a serious radiation safety concern.
>
> During the January 22, 2002 MRB meeting, the MRB directed the review team to expand Recommendation 3 to indicate that the review team’s concerns are not limited to documentation of inspections. In response, given that Recommendation 3 has been closed, the review team has developed the following recommendation to address the MRB direction, “The review team recommends that the Division establish and implement additional guidance for report documentation and ensuring consistent, appropriate , and prompt regulatory actions, such as enforcement and inspection actions, incorporating root cause identification and health and safety significance (severity levels) for repeat violations.”

The SUMMARY section of the Tennessee Follow-Up Final Report is revised as follows to reflect the above changes to the report:

> Below is a summary list of the open recommendation from the 2000 report and the new recommendations from this follow-up review.
>
> Open Recommendation from the 2000 IMPEP report:
>
> <u>Recommendation 1</u>
>
> > The review team recommends that the Division take actions to ensure that: (1) inspections are conducted in accordance with their assigned inspection frequencies; and (2) inspection reports are issued in a timely manner. (Section 3.1 of 2000 report; Section 2.1 of follow-up report)

New recommendations from the follow-up review:

Follow-up Recommendation 1

The review team recommends that the Division establish and implement additional guidance for report documentation and ensuring consistent, appropriate, and prompt regulatory actions, such as enforcement and inspection actions, incorporating root cause identification and health and safety significance (severity levels) for repeat violations. (Section 2.2 of follow-up report)

Follow-up Recommendation 2

The review team recommends that the Division establish a management plan for the development, tracking, and adoption of regulations in a timely manner, and to adopt the current regulations needed for adequacy and compatibility in accordance with the STP Procedure SA-201, “Review of State Regulations or Other Generic Legally Binding Requirements.” (Section 3.1.2 or follow-up report)