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Our Ref: 15/539

20 July 2015

Ms Jeanette Radcliffe
Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 260

Dear Ms Radcliffe

Thank you for your letter of 30 June 2015 to Dr Larry Marshall inviting CSIRO to make a submission to the Senate Community Affairs Legislation Committee's Inquiry into the *Australian Radiation Protection and Nuclear Safety Amendment Bill 2015*. Dr Marshall has asked that I respond on his behalf.

In response, CSIRO would like to make the following submission:

With respect to the proposed new s80A to C to be inserted into the Act, CSIRO notes that these sections largely follow similar provisions contained in the *Work Health and Safety Act 2011*. CSIRO believes that these provisions will be a useful improvement to the Act, however it appears that no provision has been made to allow or seek allowance for a stay of the operation of an improvement notice in the event that a licence holder may avail itself the opportunity for a reconsideration of the decision by an inspector to issue the Improvement Notice under s80C. By virtue of the operation of s80B(1), the licensee must comply with that Improvement Notice even though it is under reconsideration by the CEO pursuant to a request made under s80C. Such a requirement would seem to be inconsistent with the aim of s80C where an Improvement Notice issued by an inspector must be reconsidered by the CEO upon a request being made by a licence holder within 28 days of the making of the Improvement Notice.

In the *Work Health and Safety Act 2011* this situation is dealt with by the application of s228 **Stays of reviewable decision on internal review**. Which provides as follows:

'228 Stays of reviewable decisions on internal review

- (1) An application for an internal review of a reviewable decision (other than a decision to issue a prohibition notice or a non-disturbance notice) stays the operation of the decision.
- (2) If an application is made for an internal review of a decision to issue a prohibition notice or a non-disturbance notice, the reviewer may stay the operation of the decision.
- (3) The reviewer may make the decision to stay the operation of a decision on the reviewer's own initiative or on the application of the applicant for review.
- (4) The reviewer must make a decision on an application for a stay within 1 working day after the reviewer receives the application.
- (5) If the reviewer has not made a decision to stay a decision within the time set out in subsection (4), the reviewer is taken to have made a decision to grant a stay.

- (6) A stay of the operation of a decision pending a decision on an internal review continues until whichever of the following is the earlier:
- a. the end of the prescribed period for applying for an external review of the decision made on the internal review;
 - b. an application for external review is made.'

CSIRO respectfully submits that the amendments being proposed should include a provision in similar terms to the foregoing provision contained in the *Work Health and Safety Act 2011*.

Yours sincerely 

Craig Roy
Deputy Chief Executive
CSIRO