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December 18, 2017

Mr. John Tappert, Director
Division of Uranium and Waste Programs
Office of Nuclear Materials Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Request for Update of RIS-2015-02 on Low Level Waste Manifests

Project Number: 689

Dear Mr. Tappert:

On behalf of the Nuclear Energy Institute's (NEI)¹ Low Level Waste (LLW) Task Force members, we respectfully request that you and your staff consider the following suggestion on the need for updated LLW guidance. We would appreciate feedback on how NRC staff resolves this comment.

As you are aware, recent Commission direction (SRM on SECY-16-0106) regarding the 10 CFR Part 61 rulemaking has protracted the schedule. Specifically, there are new milestones to accommodate an additional public comment period and public meeting(s) during calendar year 2018 and, assumingly, reconsideration by the Commission thereafter. As a result, an update to existing related LLW guidance—previously identified by industry and the staff as necessary (SECY-16-0118)—will be further delayed with no timeline for an update specified. Therefore, we offer the following suggestion for the staff's consideration and response.

Specifically, Attachment 1, page 10 of SECY-16-0118 states *"NUREG/BR-0204 provides instructions for completing the NRC Forms 540/540A, 541/541A, and 542/542A. These forms are collectively known as the uniform manifest. Stakeholders and the NRC have identified items on the forms that should/need to be revised. Additionally, from work on the 10 CFR Part 61 rulemaking, the staff identified needed revisions to the forms."* While we recognize that this NUREG and the related Regulatory Issue Summary 2015-02 are directly related to the ongoing Part 61 rulemaking—and staff argues that any update should be delayed until

¹ NEI is responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory, financial, technical and legislative issues. NEI members include all companies licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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the rulemaking is completed—we believe that NRC and industry would benefit from the prompt issuance of a narrowly focused update to RIS 2015-02 in the interim. Its purpose would be twofold.

First, the updated RIS should resolve the current NRC-acknowledged debacle associated with the waste manifest certification statement. Specifically, LLW which is routinely packaged and shipped off-site from a nuclear power plant to a waste processor is not—nor does it need to be at that time—classified in accordance with Part 61 (Class A, B or C) or packaged for disposal. Thus, the second sentence of the current certification statement on Form 540 is not applicable and should be recognized by NRC as such. Revising the RIS to allow shippers to line out the second sentence of the certification for shipments to waste processors would resolve this issue until such time as the forms can be revised.

Secondly, RIS 2015-02 was issued to promptly recognize that: 1) commercial laboratories cannot detect Technetium-99 and Iodine-129 and; 2) licensees could use scaling factors or calculations to report activity versus laboratory lowest level of detection values. Since issuance of the RIS, the Electric Power and Research Institute (EPRI) completed its 2015 report on radionuclide scaling factors (EPRI 3002005564 available to the public at www.epri.com). The revised RIS could recognize the EPRI scaling factors as an acceptable means to demonstrate compliance with the requirement to report these radionuclides that cannot be detected or measured at such low levels of activity.

We trust you find this suggestion worthy of consideration and we look forward to your response. If you have any questions about the content of this letter, please contact me.

Sincerely,



Janet R. Schlueter

c: Gregory F. Suber, NMSS/DUWP