



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

March 15, 2018

Ms. Janet R. Schlueter  
Senior Director, Radiation and Materials Safety  
1201 F Street, NW, Suite 1100  
Washington, DC 20004

**SUBJECT: RESPONSE TO NUCLEAR ENERGY INSTITUTE LETTER REQUESTING AN  
UPDATE OF RIS-2015-02**

Dear Ms. Schlueter:

In a letter dated December 18, 2017, the Nuclear Energy Institute (NEI) requested that the U.S. Nuclear Regulatory Commission (NRC) revise Regulatory Information Summary (RIS) 2015-02, "Reporting of H-3, C-14, Tc-99, and I-129 on the Uniform Waste Manifest."

NEI requested that RIS 2015-02 be revised to address two items: (1) industry concerns related to the certification statement on NRC Form 540 "Uniform Low-Level Radioactive Manifest Shipping Paper" and (2) recognize the Electric Power and Research Institute (EPRI) 2015 Technical Report "Development of Generic Scaling Factors for technetium-99 and iodine-129 in Low and Intermediate Level Waste" as an acceptable basis to report technetium-99 and iodine-129 concentrations in low-level waste.

The letter states that a RIS revision, rather than a revision to NUREG/BR-0204 "Instructions for Completing the NRC's Uniform Low-Level Radioactive Waste Manifest," and its associated Forms (540, 541 and 542), is requested because the planned NUREG/BR-0204 revision is tied to the ongoing Part 61 rulemaking, whose schedule has been extended.

The staff is aware of the potential impacts of the Part 61 rulemaking timeline on the NUREG/BR-0204 revision and is in the process of adding flexibility to the revised draft NUREG/BR-0204 text and associated forms to allow NUREG/BR-0204 to be issued for public comment prior to the Part 61 rulemaking becoming final. The flexibility added to NUREG/BR-0204 relates to the Part 61 proposed requirement for waste disposal sites to have an NRC-approved waste acceptance criteria. Additionally, the staff is aware of the comments submitted by industry regarding the certification statement on NRC Form 540. The NRC is considering these comments as NUREG/BR-0204 is being revised.

The staff is developing a draft NUREG/BR-0204, Rev. 3 that is expected to be issued for public comment in the summer of 2018. Therefore, the staff believes a revision to RIS 2015-02, which provides alternative options for the reporting of these radionuclides when they are present at levels less than the lower limit of detection, is not warranted at this time and would not be an efficient approach to address the certification statement concern.

Additionally, the letter suggests that the NRC could revise RIS 2015-02 to recognize a report completed by EPRI on generic scaling factors as an acceptable means to demonstrate compliance with the requirement to report difficult to measure radionuclides. The staff is familiar with the EPRI Report (EPRI 3002005564 available to the public at [www.epri.com](http://www.epri.com)), however, this

report has not been formally submitted to the NRC for review. In order for the NRC to make a determination that the EPRI scaling factors are an acceptable means to demonstrate compliance, the staff would have to perform a formal evaluation of the report. Either EPRI or NEI could submit the report to the NRC Document Control Desk with attention to John Tappert, Division Director, Decommissioning, Uranium Recovery, and Waste Programs for a Topical Review under a process similar to that used by the NRC Office of Nuclear Reactor Regulation. As described in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended," review of a Topical Report is a fee recoverable activity where the requester will be assessed fees to cover the full cost of the NRC's review. Without a Topical Review, individual licensees can still use the EPRI report as supporting data for their site-specific developed scaling factors provided that the individual licensees can justify that the scaling factors generated in the EPRI report are applicable to their site.

Another option is for NEI (or EPRI) to request that the NRC review the report through a fee exemption. Under this scenario, NEI would submit a written fee exemption request to the NRC's Chief Financial Officer (CFO) as described in 10 CFR 170.11 "Exemptions". The request should provide sufficient information such that a fee exemption determination can be performed. The final determination to accept or deny the fee exemption request will be made by the CFO and communicated to the requester in a determination letter.

If you need further information on this topic please contact Lloyd Desotell at 301-415-5969 or via e-mail at [Lloyd.Desotell@nrc.gov](mailto:Lloyd.Desotell@nrc.gov).

Sincerely,

/RA/

John Tappert, Division Director  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

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**DISTRIBUTION:**

K. Pinkston, NMSS

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