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FROM: DUE: / /

EDO CONTROL: G20120278
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FINAL REPLY:

Michael W. Rencheck
AREVA, Inc.

TO:

Commission

FOR SIGNATURE OF :

** GRN **

CRC NO: 12-0175

DESC:

ROUTING:

Reprocessing Rulemaking - Draft Regulatory Basis
and Path Forward that Addresses Regulatory Gap for
Licensing and Regulating a Recycling/Reprocessing
Facility (SECY-11-0163) (EDATS: SECY-2012-0207)

Borchardt
Weber
Virgilio
Ash
Mamish
OGC/GC
Satorius, FSME
Sheron, RES
Wiggins, NSIR
Zobler, OGC
Chen, OEDO

DATE: 04/27/12

ASSIGNED TO:

CONTACT:

NMSS

Haney

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

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Electronic Document and Action Tracking System

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Other Assignees:

SECY Due Date: NONE

Subject: Reprocessing Rulemaking - Draft Regulatory Basis and Path Forward that Addresses Regulatory Gaps for Licensing and Regulating a Recycling/Reprocessing Facility (SECY-11-0163)

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OCA Concurrence: NO

Special Instructions: For Appropriate Action.

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Incoming Task Received: Letter

**OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET**

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PAPER NUMBER: LTR-12-0175 **LOGGING DATE:** 04/26/2012
ACTION OFFICE: EDO

AUTHOR: Michael Rencheck
AFFILIATION: VA
ADDRESSEE: Gregory Jaczko and Commissioners
SUBJECT: Reprocessing rulemaking-draft regulatory basis and path forward

ACTION: Appropriate
DISTRIBUTION: RF

LETTER DATE: 04/20/2012
ACKNOWLEDGED No
SPECIAL HANDLING:

NOTES:
FILE LOCATION: ADAMS

DATE DUE: **DATE SIGNED:**



Michael W. Rencheck
President and CEO

April 20, 2012
NRC:12:017

The Honorable Gregory B. Jaczko, Chairman
The Honorable Kristine L. Svinicki, Commissioner
The Honorable George Apostolakis, Commissioner
The Honorable William D. Magwood IV, Commissioner
The Honorable William C. Ostendorff, Commissioner

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Reprocessing Rulemaking – Draft Regulatory Basis and Path Forward

Dear Chairman and Commissioners:

At the end of 2011, the NRC staff provided the Commission with a proposed path forward on establishing a regulatory framework and a draft regulatory basis document that addresses regulatory gaps for licensing and regulating a recycling/reprocessing facility (SECY-11-0163).

AREVA Inc. (AREVA) commends the Staff for the progress they have made to date on the recycling rulemaking activities, considering the limited resources available to them. AREVA encourages the Commission to further support the effort to develop a regulatory framework and draft a regulatory basis document for 10 CFR Part 7x in a timely manner to provide for the licensing of a commercial used fuel recycling center. This is a position supported, at least in part, by the Blue Ribbon Commission on America's Nuclear Future's Final Report, which noted in Section 11.3 that the "ongoing work by the NRC to develop a regulatory framework for novel components of advanced nuclear energy systems...is a priority because a regulatory framework can help guide the design of new systems and lower barriers to commercial investment by providing greater confidence that new systems can be successfully licensed." Therefore, AREVA hopes the Commission can improve upon the schedule for this rulemaking activity which, in the last year alone, has undergone a four-year delay towards final rulemaking (from 2015 to 2019).

AREVA Inc.

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AREVA further notes that, while the staff has produced a document that establishes a basic framework for a recycling rulemaking, there are a number of important issues that need additional dialogue. These include "Very High Consequence Events" (VHCE) (Gap 5), very prescriptive general design criteria (Gap 9), and some troubling positions on definitions of waste (Gaps 3 & 16).

For example, the introduction of the concept of a VHCE deviates with portions of other rules (e.g., 10CFR70.61) and does not appear to serve, nor is necessary to achieve, the underlying purpose of this rulemaking activity for demonstrating the safety of facilities falling under its scope. VHCE is a new regulatory term. Introducing a new unprecedented class of accident would add unnecessary complexity to the demonstration of the safety of the facility to the public. It is not evident why recycling facilities should be regulated with a class of accidents that has never been applied to existing facilities. The potential implication is that a recycling facility has an inherently higher risk profile than existing licensed nuclear facilities, is unenforced. Therefore, introducing the VHCE concept in this regulation is unwarranted and would result in significant regulatory uncertainty.

In summary, AREVA strongly urges the NRC to continue its rulemaking activities related to future recycling facilities with improvements to the proposed schedule for final rulemaking and offers its extensive experience in recycling to assist the NRC staff on the aforementioned issues of concern related to the "Draft Regulatory Basis and Path Forward."

If you wish to discuss the recommendations and concerns noted in this letter, please contact Pedro Salas, AREVA Corporate Regulatory Affairs Manager at 434-832-4937 or by e-mail at pedro.salas@areva.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Rencheck", written in a cursive style.

Michael W. Rencheck

c: R. William Borchardt
Michael F. Weber