

October 19, 2001

Mr. Lake H. Barrett, Acting Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Barrett:

By letter of May 4, 2000, you requested the review and concurrence of the U.S. Nuclear Regulatory Commission (NRC) on the U.S. Department of Energy's (DOE's) draft final revisions to its "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" and its "Yucca Mountain Site Suitability Guidelines (10 CFR Part 963)" (the Guidelines). The Commission's action on this request was delayed pending completion of the U.S. Environmental Protection Agency's (EPA's) final standards for the Yucca Mountain site (40 CFR Part 197) and NRC's final rulemaking conforming its technical regulations to EPA's standards (10 CFR Part 63). EPA published its final standards on June 13, 2001 (66 FR 32073). The Commission affirmed NRC's final conforming regulations on September 7, 2001. On October 9, 2001, we received clearance from the Office of Management and Budget on the Paperwork Reduction Act requirements of the final rule. Consequently, it will be published in the *Federal Register* as soon as is practical.

This letter is to inform you that the Commission concurred on the Guidelines on September 24, 2001. A notice of the Commission's concurrence decision is expected to appear shortly in the *Federal Register*. We are aware that DOE's Guidelines must still be reviewed by the Office of Management and Budget and that it is possible that further changes will be made to the Guidelines before their publication. The Commission's concurrence is contingent on DOE's agreement to notify NRC of any changes to the draft final Guidelines (including changes to the *Supplemental Information*), and its agreement to retransmit the revised rulemaking package to the Commission, if any substantive changes are made, for a determination as to whether re-concurrence is needed. Also, we note that the NRC's final rule incorporates the applicable quality assurance criteria of 10 CFR Part 50, Appendix B, into Part 63, and therefore DOE's reference to "...the quality assurance criteria of Appendix B in Part 50 ...," in the *Supplementary Information* to the Guidelines, is no longer appropriate.

If you have any questions about this matter, please contact William Reamer, of NRC's Division of Waste Management, at (301) 415-7208.

Sincerely,

/S/

Richard A. Meserve