



**Department of Energy**

Washington, DC 20585

February 8, 1994

Mr. John J. Linehan, Deputy Director  
Division of High Level  
Waste Management  
Office of Nuclear Materials  
Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Linehan:

This is to notify you of the U.S. Department of Energy's position for the Yucca Mountain site on the use of 40 Code of Federal Regulations (CFR) Part 191 that was promulgated by the Environmental Protection Agency (EPA) on December 20, 1993. We believe that the provisions of those final standards in 40 CFR Part 191 are not applicable to the Yucca Mountain site. The final standards are only applicable to the Waste Isolation Pilot Plant (WIPP) and any subsequent repositories per the WIPP Land Withdrawal Act. The standards for the Yucca Mountain site are being developed by EPA per the Energy Policy Act of 1992.

During development of our requirements documents and baselines, we are guiding the program using the 1985 40 CFR Part 191 that was remanded in 1987. In these documents, when the 1985 40 CFR Part 191 requirements are referenced, language such as "to be resolved" or "requirements are subject to review until the standard is replaced" is used. We will continue to use the 1985 version of 40 CFR Part 191 until EPA promulgates the new standard for Yucca Mountain.

If you have any questions, please call me at 202 586-6046 or Priscilla Bunton of my staff at 202 586-8365.

Sincerely,

Dwight E. Shelor  
Associate Director for  
Systems and Compliance  
Office of Civilian Radioactive  
Waste Management

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cc:

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