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MEMORANDUM FOR: Neil Numark, Program Assistant-HLW
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

FROM: Jerome Saltzman, Assistant Director
State and Licensee Relations
Office of State Programs

SUBJECT: DOE ADVISORY PANEL ON WASTE MANAGEMENT ORGANIZATION

WM DOCKET CONTROL

As we discussed, I have reviewed the AMFM report in light of possible impacts on the NRC's regulatory role.

Appendix E describes the liability issue among those that were not substantially addressed by the AMFM Panel. The discussion on pages E-17 and -18 is an accurate account of the positions and issues as they relate to the liability question today. With respect to recommendations for alternative organizational forms to DOE for managing the high level waste program, Appendix E states:

"It is essential that whatever organization has program responsibility have clear authority to deal with any accident, however remote the possibility. The Price-Anderson Act can be amended to apply to repository operations or other legislation can be developed."

Whether Congress would be willing to extend DOE's authority to indemnify contractors of a new entity, particularly one that would have tenuous Federal authority to obtain appropriated funds, is problematical. If such amendment to the Price-Anderson Act were not made and if it were considered to be in the public interest for Price-Anderson to be the vehicle to provide liability coverage to a repository, the NRC could, if its present authority is continued beyond August 1987 (the current date for expiration of authority to enter into new indemnity agreements), exercise its authority to indemnify the licensee for the repository, whoever this entity turned out to be.

As the attached correspondence and Appendix E of the AMFM report indicated, such an approach would be a departure from the present view of how liability coverage for repositories will be handled. If the NRC were to be

What specifically, in the correspondence, gives this present view? Is it a view that DOE or the alternative agency would indemnify, and not NRC?

1/8 - Indemnify - DOE would handle under P-A.

If new org, would have to modify P-A to extend to the new org. the authority to indemnify contractors; 2) establish new leg. authorizing org. to indemnify, or 3) have NRC do it. If 3), not clear that NRC would have authority

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responsible for extending liability coverage to a repository licensee, there would be a minimal impact on NRC resources but a rather significant impact on the NRC's "role" in this area.



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Enclosures:

J. Saltzman memo to W. Olmstead, 10/3/84
W. Olmstead memo to J. Saltzman, 11/30/84

cc: G. Cunningham, ELD
R. Browning, WM