

**SUMMARY STATEMENT OF STEVE FRISHMAN  
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TO THE DISPOSAL SUBCOMMITTEE  
BLUE RIBBON COMMISSION ON AMERICA’S NUCLEAR FUTURE  
SEPTEMBER 1, 2010  
WASHINGTON. D.C.**

*Panel 2: What are the essential elements for a technically credible and publicly acceptable institutional system and process for regulating the safety of disposal?*

The regulatory arena associated with deep geologic disposal of high-level radioactive waste and used nuclear fuel has been subject to an array of policy changes, changes in philosophy, and internal struggles within and between the two affected regulatory agencies – the Nuclear Regulatory Commission and the Environmental Protection Agency. The interested and affected public often has been confused about the roles of the respective agencies, and the motivation, scope and meaning of the regulations proposed, while being confined in their responses to the review and comment provisions of the Administrative Procedures Act (APA), and ultimately the federal courts. Having been a participant in this process, at the affected state government level, for its entire nearly 30-year history, has been frustrating, to say the least. There were long periods when DOE proceeded with the repository program without final safety and licensing standards against which to evaluate safety and design analyses and decisions.

*How can needed regulations be developed in a coordinated, consistent, and timely manner? And, is the current allocation of regulatory authorities among agencies appropriate?*

Given the unique and broad scope of needed regulation, and the unprecedented long period of time that safety must be assured, development of regulations for disposal safety requires a coordinated and dedicated effort that draws not only from the expertise of both the EPA, for a safety standard, and the NRC for safety analysis and compliance assessment, but also from the knowledgeable public. A panel, made up of experts from both agencies who have access to the agencies’ resources, as well as experts from the public sector, could hold public inquiries to invite and enable discussions, including the following topics: regulatory policy objectives and options, safety and environmental standards, feasibility of implementation, scope of consideration in safety analysis, level of assurance of safety required, and understandability. A comprehensive report and recommendations from this panel would become the basis for a single integrated disposal safety regulation with generic applicability, assuming geologic disposal is intended. The actual regulation, informed by the panel’s report, would be written and promulgated by the implementing regulator, assisted by the other agency, following APA procedures.

Since final disposal safety regulations must precede any siting activity, state local, and tribal governments should be invited to participate in the panel’s inquiry individually, and/or by their various representative associations.