

New study examines role of government in Deepwater Horizon oil spill

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Smoke billows over a controlled oil fire in the Gulf of Mexico off Venice, La., May 5, 2010. Credit: U.S. Coast Guard

A recent ruling by a federal judge that BP was "grossly negligent" in the 2010 Deepwater Horizon oil rig spill in the Gulf of Mexico placed the majority of blame on the multinational oil and gas company. Although not on trial in this case, the federal government was also culpable in the largest oil spill in U.S. history, according to a new paper by Christopher Koliba, professor in Community Development and Applied Economics, and one of his former students.

Based on reports from the National Commission on the BP Deepwater

Horizon Oil Spill and Offshore Drilling, the Chief Council's Report and other government documents, Koliba and Russell Mills, assistant professor in political science at Bowling Green State University, determined that the government's reliance on market-based accountability mechanisms and its failure to implement a regulatory process based on a mutually agreed upon set of robust standards and voluntary information disclosure led to the largest oil spill in U.S. history.

"The federal agency that was supposed to be regulating the oil industry had competing objectives," says Koliba. "They were charged with both promulgating economic development and ensuring public safety and environmental safety, and so when you get the same entity that's trying to both advance and also regulate, you get these convoluted lines of accountability, and I think the recent court ruling betrays that element. They totally ignored what the [federal government](#) didn't do in the environment for letting this situation evolve the way it did."

Mills, a 2007 graduate of UVM's Master of Public Administration program, which Koliba directs, agrees with the blame assigned to BP, but says he'd give the U.S. Office of Management and Business (OMB) a quarter of the overall responsibility for the disaster. "Ultimately, OMB could have decided to force industry to implement more regulated practices, and they didn't."

Assigning blame, which the judge split among BP (67 percent), Transocean (30 percent), and Halliburton (3 percent), wasn't the only focus of Koliba and Mills' paper "The Challenges of Accountability in Complex Regulatory Networks: The Case of the Deepwater Horizon Oil Spill," however. The article, published in the Journal Regulation & Governance, highlights the challenges facing public administrators as they defer to the professional expertise of the private sector in highly complex industries like aviation or deepwater drilling.

"The private sector has such an information advantage over regulators that often times government is sort of guessing at what the private sector is really doing," says Mills, who previously worked as a policy analyst in the Office of Aviation Policy at the Federal Aviation Administration.

"Those are advantages that private companies, in this case BP and Haliburton, have over government managers who just didn't have the professional capacity to effectively regulate."

Reduced funding creating unlikely alliances

Koliba and Mills attribute a reduction in funding and resources as the primary reason for increased collaborations between government, private sector industry and non-profits. Consequently, federal agencies are abandoning traditional government-centered regulatory oversight of the private sector focused on specific mandates ensured through inspections by agency personnel. Alternatives to this approach, known as process-oriented regulation, focus on collaborations between the regulated firm (BP) and the regulatory agency (U.S. government) based upon a set of mutually agreed upon standards and voluntary disclosure.

Such a system makes it "extremely challenging," Koliba says, to ensure accountability at a time when elected officials, light on funding, are increasingly opting to lean on the expertise of the private sector to develop their own compliance standards.

Mills views the new collaborative accountability to process-oriented regulation as based less on formal controls and more on informal things like trust, repeated interaction, experience of practice, and other mechanisms to ensure that the private sector is effectively regulated either by themselves or a combination of participants.

Those types of relationships can be tricky, however, if trust and collaboration become something else. "It's a thin line between

collaboration and collusion," says Koliba. "In the regulatory world there's concern about regulatory capture. The critique of that approach is that when regulators and the industries they regulate have close trusting relationships, the ability to verify that proper compliance is being followed could get muddled."

Equally concerning is the possibility of contracted companies in highly specialized industries taking advantage of the relationship due to pressure from stockholders and other invested parties. Stern rulings like in the Deepwater Horizon case could prompt companies like BP to think twice about non-compliance.

"The importance of the ruling could set the precedence for the lead [private sector](#) organizations in these networks to know that they have a level of culpability," says Koliba. "It sends a message to the industry that they can't just point fingers and that ultimately the buck will stop with the lead organization. It could be a seminal moment in process-oriented regulation."

Future applications of governance network accountability model

The initial idea for the Deepwater Horizon article flowed from a previous article written by Koliba, Mills and Asim Zia, associate professor in CDAE, that used a governance network accountability model created by the three researchers to look at the disaster response to Hurricane Katrina. The highly-cited article "Accountability in Governance Networks: An Assessment of Public, Private, and Nonprofit Emergency Management Practices Following Hurricane Katrina" was published in *Public Administration Review* and won the 2011 Marshall E. Dimock Award for the best lead article in PAR for that year.

Koliba and his colleagues plan to apply their accountability framework to other governance networks such as the Federal Aviation Administration and watershed governance in the Lake Champlain Basin.

"The framework was designed to allow researchers and practitioners to look at the tradeoffs between democracy, markets and administrative accountabilities," says Koliba. "It provides a way for researchers in different fields to analyze the tradeoffs between the three. There is often a lot of talk about the tradeoffs between democratic principles and market-based principles, for example, and this framework allows us to suss out those differences in a systematic way."

Provided by University of Vermont

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