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Time for a regulatory revival

The gulf oil spill was caused, in part, by a culture of lax oversight of business that pervades the federal government

By Rena Steinzor
3:57 p.m. EDT, June 17, 2010

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President Barack Obama's speech Tuesday night was an indication that **BP** and its corporate partners are starting to be called to account for the damage done by the massive **oil spill** devastating the Gulf of Mexico and the region. But an equally important set of questions needs to be answered about how the federal regulatory system allowed BP and other oil companies to drill in waters so deep without effective fail-safes.

In truth, this is just the last in a string of profit-driven tragedies that have horrified us recently. Consider the 29 workers smothered in a West Virginia mine shaft; salmonella-laced peanut butter that killed nine and sickened thousands; the recall of 8 million Toyotas after as many as 89 people were killed in sudden acceleration incidents; children's toys slathered with lead paint; drywall venting sulfuric acid into living rooms; and now the worst environmental disaster in our history, which initially killed 11 workers.

The companies that caused these tragedies deserve much of the blame, and where crimes were committed, prosecutions and civil litigation should follow. But it's also vital to understand just why the regulators charged with the job of preventing such disasters have failed so spectacularly.

One argument we're hearing from some on the right is that these byproducts of industrialization are the price we pay for human progress. Expecting "big government" to prevent such tragedies is whistling in the wind. These cavalier answers bring scant comfort to the bereaved families, fishermen and coastal residents who have seen their lives collapse in the wake of gross corporate negligence.

The fact is, we need government regulators to guard against the excesses of companies that are more concerned with profits than with safety. We can no more afford to take regulators out of the picture than we can afford to take cops off the beat.

Unfortunately, over the last five presidencies, that's exactly what has happened. Health, safety and environmental agencies are starved of resources, with budgets at the same level in constant dollars as they were in the mid-1980s. Years of bureaucracy-bashing have driven the best and brightest out of government service, especially at the level of middle management. Regulators lack legal authority to go after the bad guys, with maximum penalties for breaking the law often far less than the money corporations can save by ignoring such requirements. Someone who kills an endangered polar bear can be fined more than one whose gross negligence kills a worker.

Regulators at the Minerals Management Service were caught drinking and sleeping with the industry honchos they were supposed to police. MMS staffers apparently saw industry as their pals, not as the folks whose behavior they were supposed to regulate. This problem went far beyond the mindset of few misguided individuals: The office where they worked was the same one that collected royalties from the oil companies. Wasn't the conflict of interest clear? Of course it was.

Such conflicts are common in government, and not by accident. For example, the Department of Agriculture regulates the meat supply, instead of the Food and Drug Administration. The USDA's job is to promote American agriculture and help it succeed; the FDA's job is to make sure the food supply is safe. So you'd think meat safety would be FDA's job. But it's not, precisely because agri-business wanted friendlier regulators.

Compounding the systemic problems caused by such blatant instances of agency capture are drastic funding shortfalls at every regulatory agency in the country. If the Occupational Safety and Health Administration took all of its federal and state inspectors and tried to visit each of the 8 million workplaces under its jurisdiction only once, the job would not be finished until well into the next century. The **Environmental Protection Agency**'s toxic chemicals program is so weak that in 2009, the nonpartisan Government Accountability Office put it on a short list of high-risk areas. Again, no accident: Industry's allies in Washington wanted hobbled regulators and ultimately got what they paid for in campaign contributions and publicity campaigns.

Having succeeded all too well, many of those same voices now argue that the failures we see on display in the gulf are evidence that regulation can't work and that we must instead depend on corporate know-how and good will.

Those arguments are as bankrupt as BP may be by the time this crisis is over. The only reliable, long-term solution is to putting strong and independent regulators back on the beat and self-serving lobbyists on the back benches.

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