

Regulatory Failure, Capture, and Remedies



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Gulf Oil Spill




- **Attributable to regulatory failure**





CPR Reports




 **Regulatory Blowout:**
How Regulatory Failures Made the BP Disaster Possible, and How the System Can Be Fixed to Avoid a Recurrence

By CPR Member Scholars Alyson Flournoy, William Andreen, Rebecca Bratsples, Holly Doremus, Victor Flatt, Robert Glicksman, Joel Mintz, Daniel Rohlf, Amy Sinden, Rena Stelnor, Joseph Tomalin, and Sandra Zellmer, and CPR Policy Analyst James Goodwin



 **The BP Catastrophe:**
When Hobbled Law and Hollow Regulation Leave Americans Unprotected

By CPR Member Scholars Alyson Flournoy, Sidney Shapiro, William Andreen, and Thomas McGarity, and CPR Policy Analyst James Goodwin



www.progressivereform.org

Interactive Map



CPR CENTER FOR PROGRESSIVE REFORM | **Catastrophe Watch** + reset map

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The BP Oil Spill in the Gulf of Mexico: Hobbled Law Meets Hollow Regulation

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Administrative Law



- Enables public interest groups to be “watchdogs”
 - File comments on proposed regulations
 - Take agencies to court if regulations are inadequate



Reality



- **Limited public interest participation**
- **Internal agency resistance to stronger regulation**



Limited Public Interest Involvement



- **Empirical research shows**
 - Regulated entities
 - ✦ File many more comments
 - ✦ Have many more meetings
 - Often no public interest comments
- **Result**
 - Information asymmetries
 - Capture



Internal Resistance



- **Research shows**

- Hostile presidential appointees
- Revolving door
- Deep Capture
 - ✦ Transference
 - ✦ Conflicts of interest



- **Result**

- Agency resistance to stronger regulation
- Capture

Reforms?



What am I supposed to do
with all of this information?

More transparency

- **Public calendars with meeting summaries**
- **Statistics on number of**
 - Meetings / type of group
 - Comments / type of group
- **Positive Metrics**
 - Indicator reports
 - Measuring regulatory progress

“Sunlight is said to be the best disinfectant”*



*Louis Brandies
(by Andy Warhol)

Strengthen the Public Service

- More resources
- More professionals
- Make public service attractive (again)

“Ask not what your country can do for you, ask what you can do for your country.”*

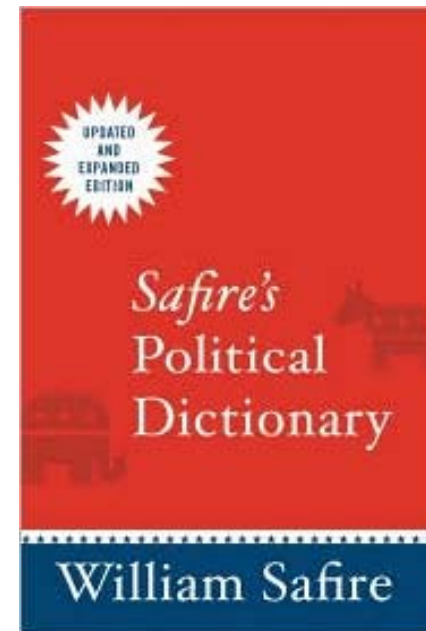


* John F. Kennedy

Reduce Conflicts of Interest

- Establish an ethical culture
- Eliminate institutional conflicts of interest

“Conflict of interest: the dilemma of someone trying to serve two masters, sometimes leading to cognitive dissonance, sometimes leading to jail.”



Conclusion



- **Can't afford regulatory failure**
- **Addressing capture daunting job**
- **Time to start**

