TRAJECTORIES OF CRISIS-DRIVEN REGULATORY CHANGE

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Crisis Events As One Type of Trigger for Regulatory Policy: A Long Pedigree

- 19th c. Mining Accidents and Workplace Safety Regulations in United States and Europe
- 19th c. Railroad Accidents and Mandated Safety Equipment
- 19th c. Cholera Epidemics and Public Health Regimes
- 20th c. Dramatic Episodes of Unsafe Drugs (Ethyl Glycol, Thalidomide) and Prior Approval Regimes
- 20th c. “Killer Fogs” in London and Pollution Controls
- Seveso, Bhopal, and other late 20th c. Chemical Plant Explosions, and Chemical Process Safety Regulation in the EU, US, and India
Crisis-Driven Change in Risk Regulation:
Three Clusters of Case Studies

**TYPE OF CRISIS**
- NUCLEAR ACCIDENTS
  - THREE MILE ISLAND (1979)
  - CHERNOBYL (1986)
  - FUKUSHIMA (2011)

**SPECIFIC EPISODES**
- OFFSHORE OIL SPILLS/ DISASTERS
  - SANTA BARBARA (1969)
  - EXXON VALDEZ (1989)
  - BP DEEPWATER HORIZON (2010)

**SOCIETAL POLICY RESPONSES**
- FINANCIAL CRISES
  - GREAT DEPRESSION OF 1930s “PERIPHERAL” CRISES OF 1970s-90s
  - GLOBAL FINANCIAL CRISIS, 2007-??

- UNITED STATES
- FRANCE/GERMANY JAPAN
- UNITED STATES
- UNITED KINGDOM NORWAY
- UNITED STATES
- UK / FRANCE EUROPEAN UNION
A Key Goal – Developing a Stylized Model of Crisis-Driven Regulatory Change
POLICY OUTCOMES IN CRISIS-DRIVEN REGULATION

CONTESTED CAUSAL NARRATIVES

CRISIS-DRIVEN POLICY AGENDA:

PROBLEM REDEFINITION & REVISED POLICY MENU

POLICY FILTERS:

INTERESTS

RESOURCES

INSTITUTIONAL STRUCTURES

(DIS)TRUST IN INSTITUTIONS

SIGNIFICANT CHANGES IN REGULATORY POLICIES

COSMETIC CHANGES IN REGULATORY POLICIES

EXPERT ANALYSIS
Determinants of “Significant” Versus “Cosmetic” Crisis-Driven Regulatory Change

- Depth of Government’s Investment in Previously Stymied Reforms – “Crisis” as Policy Window
- Severity / Magnitude of Harms; Villains and Victims
- “Proximity” of the Crisis: perception of implications for “us”
  -- not just geographic
  -- technological/institutional parallels or distinctiveness
- Effectiveness of Crisis “Narratives” in Framing New Politics (Mayer)
- Pattern of Multiple Crisis Events (Birkland and Warnement)
  -- amplification of political impulses for action
  -- learning and refinement of policy ideas
Pace of Crisis-Driven Regulatory Change

• Process often takes decade or more
  -- complexity of assessing causes and impacts
  -- complexity of formulating and implementing policies

• Example – responses to Global Financial Crisis
  -- Dodd Frank
  -- Basel III

• Deepwater Horizon as => limited/cosmetic change?
The Process of Crafting Post-Crisis Regulatory Policies
STRATEGIC ORIENTATION IN CRISIS-DRIVEN
REGULATORY POLICY-MAKING

<-------------[taken as given]-------------- INDUSTRY STRUCTURE --------------[reimagined]------------->

<-------------[narrow]-------------- POLICY SCOPE --------------[broad]---------------------->

<-------------[lessening incidence of hazards]-------------- POLICY FOCUS --------------[hardening targets/systems]-------------->

RETHINKING REGULATION at THE KENAN INSTITUTE FOR ETHICS at DUKE UNIVERSITY
Crisis-Driven Regulatory Policy:
Strategic Posture

- More/Less Stringent Rules
- Industry Structure as Given
- Tougher/Loser Enforcement
- Preventing/Lessening Incidence of Hazard
- Focus on Hazard(s) and/or Target(s)
- Making Targets/Systems More Resilient
- Reducing Complexity
- Reimagining Industry Structure or Technological Infrastructure
- Loosening Tight Coupling
- Outright Prohibition
- More/Less Concentration
- Single Problem & Focused Intervention
- Scope: Narrow or Broad
- Complex System Requiring/Complex Response
# Policy Instruments in Crisis-Driven Regulation

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Key Queries/Considerations for Policy-makers Confronted by Crisis
Key Questions/Considerations for Policy-makers Confronted by Crisis

• How to make sense of crisis?
  -- regular policy channels? special commission?
  rather, permanent independent crisis inquiry agency?
  (NTSB model; Dutch Safety Board)

• Best practices for any of above?
  -- independence; investigative authority & resources; post-
    recommendation monitoring

• Explicit consideration of strategic posture in light of best
  understanding of crisis causes

• Explicit consideration of FULL policy menu, with attention to risk-
  risk trade-offs

• Awareness of need for updating/review
CONTRIBUTORS TO “RECALIBRATING RISK”

*Conceptual Essays*

**Elke Weber, Psychology and Columbia Business School**, on cognitive heuristics, risk perceptions, and the impact of crises on those perceptions

**Thomas Birkland, Political Science, North Carolina State University**, on the political dynamics of focusing events

**Frederick Mayer, Public Policy, Duke University**, on narrative framing and agenda construction

**Lori Bennear, Environmental Economics, Duke University**, on the techniques of economic analysis for estimating distant and/or low probability risks of great potential magnitude

**Carolyn Kousky, Economics, Resources for the Future**, on the techniques of modern insurance for assessing and hedging fat-tailed risks

*Oil Spill/Rig Disaster Case Studies*

**Marc Eisner, Political Science, Wesleyan College**, on American regulatory responses to Santa Barbara and Exxon Valdez

**Chris Carrigan, Political Science, University of Pennsylvania**, on American regulatory responses to the BP-Deepwater Horizon oil spill.

**Ole Andres Engen, Sociology, and Preben Lindoe, Risk Management, University of Stavanger**, on European regulatory responses to North Sea oil spills
CONTRIBUTORS TO “RECALIBRATING RISK”

Nuclear Accident Case Studies

Elisabeth Pate-Cornell, Engineering, Stanford, on American regulatory responses to nuclear accidents
Ortwin Renn, Sociology, Stuttgart University, and Ragnar Löfstedt, Brooke Rogers, Kristian Krieger, Kings College, London, on German and French regulatory responses to nuclear accidents
Atsuo Kishimoto, Public Policy, National Institute of Advanced Science and Technology, Tokyo, on Japanese regulatory responses to nuclear accidents

Financial Crash Case Studies

Youssef Cassis, Economic History, European University Institute, on regulatory responses to the financial crises of the Great Depression in Britain, France, and the United States
David Sicilia, History and Business, University of Maryland, on regulatory responses in the United States and Western Europe to peripheral financial crises of the 1980s and 1990s
Barry Eichengreen, Economics, University of California at Berkeley, on regulatory responses to recent European sovereign debt crises
Bruce Carruthers, Sociology, Northwestern University, on regulatory responses to the recent Global Financial Crisis, focusing on the problem of asset valuation.
Stijn Claessens and Laura Kodres, International Monetary Fund, on regulatory responses to the recent Global Financial Crisis, at both the national and global levels