COORDINATING ENVIRONMENTAL REGULATION: PROGRAM RESPONSES TO A MULTIFACETED PROBLEM

A research proposal
submitted by

Melvin J. Dubnick
Associate Professor
Department of Public Administration
University of Kansas
Blake Hall
Lawrence KS 66045
(913) 864-3527

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1. Background:

In the current debate over government regulation, the central questions focus on whether or not regulatory policy is necessary given (a) its inefficiencies and negative spillover effects (MacAvoy, 1979; Weidenbaum, 1981); and (b) the availability of viable alternatives for accomplishing public sector objectives (Balch, 1980). At the heart of the "deregulation" movement emerging from this debate is the assumption that, when all is said and done, all regulation is the same and that the only solution to poor regulatory policy efforts is their elimination.

Advocates of deregulation point to a voluminous collection of studies and recommendations by presidential committees, commissions, councils and task forces that indicate the fruitlessness of trying to merely "reform" regulation through structural and procedural modifications (Noll, 1971). After years of organizing and reorganizing, after decades of tampering with agency structures, procedures and personnel, many policymakers and policy analysts (primarily economists) have concluded that perhaps the only good regulation is no regulation at all (cf. Seidman, 1980).

There are others, however, who argue that deregulation is too extreme as a response to regulatory policy problems; i.e., that government regulation in the United States is "reformable" short of its elimination. Some of these commentators suggest that by improving the analytic capabilities of relevant agencies, we might be able to improve the quality of regulatory decisions (White, 1981). Others call for greater use of indirect mechanisms with more reliance on private sector incentives to achieve regulatory policy objectives (Schultze, 1977).

As an exponent of still another viewpoint, I have argued that past difficulties with procedural and structural reforms were rooted in the lack of empirically-based knowledge and reliance on unwarrantable "theories" about institutional factors (Dubnick, 1981A) as well as more fundamental conceptual problems related to the very definition of government regulation (Dubnick and Gitelson, 1982). In short, structural and related reforms can lead to regulatory policy improvement if we had more and better policy-relevant knowledge to work with.

Several analysts have taken a similar view and have begun systematic accumulations of such knowledge. Working under James Q. Wilson (1980), a group of Harvard students have generated a number of studies demonstrating the significant role of political and institutional factors in regulatory agency operations (see Katzmann 1980; Marcus 1980; Quirk 1981; and Weaver 1977). What is distinctive about these studies is their attempt to inductively develop some appropriate generalizations that can enhance our ability to effectively reform regulation. Taking a more deductive approach, Barry M. Mitnick (1980) has provided an elaborate model of regulation based on axioms derived from a theory of principal-agency relationships.

Despite wide differences in approach, both the Wilson group and Mitnick have similar intentions: i.e., to enhance the future capacity of policymakers to effectively reform government regulatory policy. They hope to accomplish this by offering those policymakers prescriptively useful models based on empirically warrantable theories. The same intentions underlie the project set forth in this proposal.

2. <u>The Coordination Factor in Government Regulation</u>

The focus of this project is a particularly problematic aspect of government regulation: the coordination of regulatory policy implementation. While most analyses of government regulations concentrate on their formulation and legitimation in the policymaking process, little systematic attention is given to their "delivery" through public sector "programs" that involve (1) interpreting policy requirements, (2) applying and enforcing rules derived from those requirements, and (3) prosecuting or actually adjudicating alleged violators. What we do know about regulatory policy delivery systems is that they are usually decentralized and highly fragmented. The result is that coordination problems play a central role in many regulatory programs* throughout the country.

The existence of these coordination problems would come as no surprise to students of U.S. policy implementation. Ours is a highly fragmented policy system where multiple "decision" and "clearance" points plague all public sector programs (Pressman and Wildavsky, 1973). In a political system containing over 78,000 legally independent government units, and an even greater number of program-specific agencies within those units, it is nearly impossible to find any policy effort which does not involve more than one institutional actor. Some of this fragmentation is the result of the federal structure in our constitutional system (ACIR, 1981), while a great deal of it is the product of the political pluralism which is a distinguishing characteristic of modern American government (Lowi, 1979). Regulatory policy programs have not been immune to this institutionally-based fragmentation; in fact, an argument can be made that government regulation has been especially susceptible to problems caused by these horizontal and vertical divisions of the U.S. policy system.

In addition, in recent years there has been a greater awareness of the coordination problems associated with government regulation. Most state and national regulatory functions and agencies emerged incrementally during the nineteenth century, and in only rare instances was coordination recognized

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* For present purposes, regulatory policies are those activities of government agencies (or their sanctioned agents) which are intended to restrict the choices of targeted populations in regards to specified behaviors (see Dubnick and Gitelson 1982; Mitnick 1980). In this sense, regulatory programs are organized government activities explicitly intended to implement regulatory policies.

as a salient issue during the pre-New Deal era. This all changed in the 1930s when both the complex issues generated by Depression and the pro-centralization principles of scientific management merged to generate demands for the legal and administrative reform of regulatory programs. Coordination was a central theme of those calls for reform, and the response--in the form of structural and procedural changes--has been continuous for the past four decades (Emmerich, 1971; U.S. Senate 1977; Dubnick, 1981B).

Since coordination problems associated with government regulation seem to have grown worse during those 40 years, it would be logical to conclude that efforts to improve regulatory policy programs through these reforms have failed miserably. After reviewing the literature on the subject, a more obvious conclusion is that we have no way to render such judgments since there has been so little systematic analysis of the reforms or their effects. At the same time, it is also obvious that this is a subject now rich in empirical evidence. In short, the number and variety of attempts to reform regulatory program coordination at all levels of government provides fertile ground for research.

This project is based on the belief that an empirically warrantable and prescriptively useful body of policy-relevant knowledge can be derived from the systematic investigations of how a U.S. government agency has attempted to contend with regulatory program coordination problems. Three necessary ingredients for undertaking the project are (1) a clear delineation of the dimensions of the coordination problems associated with regulatory programs; (b) a useful conceptual framework for undertaking the initial (descriptive) phases of the study; and (c) an accessible and empirically fruitful arena for field research. Together these constitute the necessary components of the research plan for this project.

3. A Typology of Coordination Problems:

In my initial explorations of this subject (Dubnick and Gitelson, 1981 and Dubnick, 1981B) it became evident that regulatory program coordination problems took a variety of forms. These variations can be summarized in a descriptive typology which differentiates such problems according to: (a) the nature of the complaint being asserted; and (b) the level of regulatory program operation upon which the complaint is focused.

(a) Regarding the first dimension, there exists four types of complaints about regulatory policy implementation which represent "coordination" problems. While these categories overlap at the margins, they are sufficiently different from one another to warrant the typological distinctions I have used. These include complaints based on: (i) overlapping jurisdictions; (ii) duplication of agency efforts; (iii) contradictory program objectives and agency actions; and (iv) the absence of central policy guidance.

(i) Complaints focused on overlapping jurisdictions are traceable to legislative statutes and executive orders creating regulatory programs which operationally intersect each other. These problems exist when more than one government agency is given--or assumes it is given--authority over a specified policy function or target population. In certain instances the overlap is intentional (or at least done and maintained knowingly by policymakers). For example, anti-trust authority is housed in both the U.S. Justice Department's Antitrust Division and the Federal Trade Commission; similarly, federal jurisdiction over noise pollution in the workplace falls within the legal reach of both the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). At other times, however, these problems are the product of unclear and ambiguous laws and decrees which leave the question of jurisdiction open to interpretation and manipulation. While some analysts do not believe the results to be necessarily dysfunctional (Landau, 1969), most observers regard the lack of coordination as a primary cause of inefficiency and ineffective regulatory programs.

(ii) The duplication of agency efforts within regulatory programs can be linked to overlapping jurisdictions, but this category of complaints focuses on problems associated with the simultaneous application of requirements from otherwise unrelated regulatory programs. In its most common form, these complaints center on the excessive and costly mountains of paperwork mandated by government agencies carrying out regulatory policies. While most of this paperwork can be justified in light of individual programmatic goals, a great deal of it has been attributed to the collection of irrelevant or useless data or to wasteful inefficiencies rooted in duplicate requests for essentially the same information. These and related complaints have resulted in coordination reforms relevant to problems of redundant actions of government agencies (Kaufman, 1977; Neustadt, 1981).

(iii) Contradictory policy objectives and agency actions pose much deeper substantive problems. Examples abound and are the source of many regulatory policy "horror stories" played up by the mass media. For instance, while OSHA requires rough textured floors in meat processing plants to help prevent accidental falls, the Animal and Plant Health Inspection Service mandates that such floors be smooth so they can be easily sanitized. Such contradictions also emerge within agencies as well. For example, while OSHA demands that all vehicles used at construction sites have "back up alarms" to alert workers of impending movements, they also require that workers at such sites wear earplugs to protect them from excessive noise levels. The examples are almost as common as government regulations themselves, and they all make the same point: it is not unusual for those who are trying to obey one regulation "to run afoul of another" (US Senate 1977). Again, the results are demands for more coordination of regulatory programs as a means for avoiding such situations.

(iv) Finally, many coordination problems are perceived in terms of the absence of any central policy guidance. There is ample evidence (Synergy, Inc. 1978) indicating that regulatory programs have impacts far beyond any narrowly defined target population or policy objective. These spillover effects are often considerable in magnitude and, under the current policy system, relatively uncontrollable. The inability of either legislatures or chief executives to control regulatory programs--to coordinate them and use them as part of government-wide programs to solve more "global" policy problems (e.g., energy, environment, inflation)--has been a major source of demands for reform in this area. What is involved here is more than calls for eliminating or minimizing duplicative or contradictory aspects of regulatory programs that might prove bothersome or inefficiency; rather, it raises the possibility of taking relatively radical steps to bring the regulatory policy system in line with other efforts to achieve more global objectives.

(b) The second dimension in our typology distinguishes between three levels of regulatory program operation within which coordination problems become manifest. These include (i) intra-agency, (ii) interagency, and (iii) inter-governmental levels.

(i) Intra-agency coordination problems are the result of a number of factors. First, while regulatory programs are often associated with a single agency, rarely does that agency have exclusive jurisdiction over the policy. Even where this is the case, the multiple tasks associated with "delivering" government regulations (e.g., interpreting, enforcing, prosecuting, adjudicating) usually demand a division of agency labor that creates internal coordination problems. This problem is magnified where certain programmatic functions demand considerable "field work" (e.g., local inspections). Add to these factors the tendency for many agencies to house several regulatory (and sometimes non-regulatory) programs, and one gets a picture of circumstances that cry out for solutions to coordination problems.

(ii) Interagency coordination problems arise from the fact that many regulatory programs involve more than one agency at a given level of government. Examples of these were provided above in discussions of federal antitrust and noise pollution policies. Again, it should be stressed that these problems are sometimes the result of conscious decisions by policymakers; at other times, however, they arise "naturally" during the course of policy implementation.

(iii) Intergovernmental coordination problems are, in one sense, a special case of interagency problems. However, here the problems involve different levels of legally autonomous government entities. Within this legal and constitutional context, the coordination problems take on special characteristics not faced within a single agency or among agencies within a single level of government (e.g., national, state, county, municipal).

The typology of regulatory program coordination problems generated by using these two dimensions is illustrated below. Each of the twelve cells of the resulting matrix represents a distinct coordination problem for the regulatory policy system in general and any regulatory policy program specifically.

(FIGURE HERE)

This typology can be used in a variety of ways. First, it provides a framework for classifying and assessing extant research of this topic. Second, since it more clearly differentiates among the different problems facing regulatory policy implementors, this framework can be used to analyze specific cases of regulatory program failure in order to determine what role coordination factors (or attempts to deal with them) might have had in that program. Third (and most relevant for the present proposal), this typology offers a foundation for more systematic research in the subject area. Having posited a descriptive categorization of regulatory program coordination problems, it is possible to explore how these difficulties are handled and what effects alternative "solutions" might have or have had on regulatory programs and on the regulatory policy system. Upon such research can be built the prescriptively useful

Reason for Coordination:	Level of Program Operations: Intra-agency	Interagency	Intergovernmental
Overlapping jurisdictions			
Duplication of agency efforts			
Contradictory policy goals and agency actions			
Lack of central policy/program guidance			

TYPOLOGY OF
REGULATORY PROGRAM
COORDINATION APPROACHES

theory that is the ultimate objective of this project.

4. <u>An "Organizing" Framework</u>:

Under ideal conditions, the systematic examination of how regulatory policy systems contend with the various coordination problems would begin with a series of case studies relevant to each of the twelve cells in the descriptive matrix. Ideally, these would be what Harry Eckstein (1975, pp. 96-99) terms "configurative-idiographic case studies" in which the facts about each case would "speak for themselves or bring out their significance by largely intuitive interpretation." Being blessed with neither the time nor resources to use such an ideal methodology, it is necessary to adopt a simple yet conceptually useful model to help guide the research--at least at these initial phases. Eckstein (after Sidney Verba) (1975, pp. 99-104) terms this the "disciplined-configurative case study" approach involving "the application to cases of frameworks of inquiry, hopefully intended to help knowledge become nomothetic (generalizing)..."

The framework adopted for this purpose is primarily derived (with modifications) from Henry Mintzberg's <u>The Structuring of Organizations</u> (1979) (see also Evan, 1976 and Hanf and Scharpf, 1978). As a synthesis of works in organization and management theory, the framework offers a perspective which uses the problem of organizational coordination as a central theme. Building on the work of Lindblom (1965) and March and Simon (1958), Mintzberg posits three major "mechanisms" for solving organizational coordination problems: mutual adjustment; direct supervision; and standardization.

In an earlier exploration of approaches used to solve interagency regulatory program coordination problems (Dubnick, 1981B) I found evidence confirming the use of all three mechanisms. Upon further investigation I have found several related frameworks to be of considerable value in generating useful information about the various approaches taken by regulatory program designers in their efforts to deal with coordination problems. Thus, in this project the case studies will be guided by concepts derived from organization and management theory with special emphasis on the synthesis provided by Mintzberg.

The key questions in the project's initial phases will reflect the adoption of these frameworks:

(i) What are the coordination problems associated with a given regulatory policy program? Here the task will be to categorize the programs being investigated into the appropriate cells of the coordination problem matrix. Given the complexities of regulatory policy delivery, I expect most programs to be susceptible to more than one type of coordination problem.

(ii) What are the mechanisms used to deal with those coordination problems? Here the possibilities need further elaboration, but preliminary explorations indicate a range of informal and formal responses. For example, among informal mutual adjustment mechanisms are the many telephone and face-to-face contacts between agencies. On a more formal level, many agencies use "Memorandum of Understanding" and task forces to coordinate their efforts. At the other end of the range of choices are direct supervision approaches. At the federal level these have included giving special coordinating powers to the Office of Management and Budget, the Regulatory Relief Task Force, and similar organizations. In between these extremes are standardization mechanisms including those which seek to control regulatory program output, agency work processes, and the personnel involved in delivering government regulations.

(iii) How are these mechanisms structured and operated? What impact do they have on regulatory program coordination? Usually there are a variety of coordination mechanisms in use, and an important factor to consider is how they are organized and implemented within the legal, political, and problematic context of the regulatory program. Specifically, this raises a number of questions about the design and effectivenss of regulatory policy programs. Research into these matters will also rely heavily on models and hypotheses derived from organization and management theory.

(iv) What factors or conditions determined the adoption and form of certain mechanisms to respond to coordination problems? If this were a rational world, we would expect the answer to be that these mechanisms were adopted because they were the most logical responses to the problems at hand. However, reality generally indicates otherwise. The task at this point is to consider what factors might best explain the choice and structure of different coordination mechanisms under varying circumstances.

These are the preliminary questions for which answers will be sought in this project. Using a variety of program studies from a single regulatory agency and applying conceptual frameworks provided by organization and management theorists, I hope to establish the foundation for the empirically warrantable and prescriptively useful theory of regulatory program coordination that is the principle objective of this research.

5. The Cases:

Regulatory policy has been so prolific in recent years, that the researcher searching for relevant cases faces a rich environment. Given time and resource constraints, however, the selection of cases will be narrowed to four programs within a single agency, the U.S. Environmental Protection Agency.

The choice of the EPA as a primary source for relevant cases is based on both its importance in American public policy and its susceptibility to many of the coordination problems covered under the framework outlined in this proposal. The complexity of its internal organization and task environments creates many situations calling for intra-agency arrangements to enhance effective policy delivery efforts. Its jurisdictions often overlap or coincide with that of other agencies (e.g., OSHA and the Army Corps of Engineers) thus creating the need for interagency coordination strategies. And its dependence on state and local enforcement in almost all its programs necessitates the design and implementation of intergovernmental relationships.

An additional and not insignificant consideration in selecting EPA for this study is the availability of information regarding the agency's development and operations. As a relatively new (1970),controversial and highly visible agency, the EPA has been scrutinized by congressional committees, the media, and dozens of scholars (e.g., Committee on Environmental Decision-Making 1977; Jones 1975; Marcus 1980; Rosenbaum 1977; Stewart and Krier 1977), thus facilitating archival research. With additional access to relevant EPA officials (former and current) at the regional and national levels, information regarding the programmatic coordination of specific EPA activities should prove relatively easy to obtain.

The specific program cases to be used in this project will be selected after a careful assessment of available information. Tentatively, however, four programs are prime candidates given the implementation experiences of each: motor vehicle pollution control; noise pollution control; effluent pollution control; and hazardous and toxic waste disposal. Focusing on the coordination arrangements associated with the implementation of each of these programs, the studies will seek to describe, explain and assess relevant problems and potential solutions using the framework developed for that purpose. From those studies should emerge evidence and generalizations regarding regulatory program coordination that can add to the development of an empirically warrantable and prescriptively useful set of policy-relevant hypotheses.

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