

Protecting Your Bottom Line Through Monitoring Government Regulation

STATE NET®



State Net White Paper

Virtually every segment of the U.S. economy is subject to government regulation. From agriculture, manufacturing and utilities, to finance, entertainment and health care, regulatory mandates are everywhere. And each year, a flood of new regulations are considered in Washington and the fifty states; in 2002, more than 30,000 regulations were proposed by state and federal regulatory agencies.

Now, more than ever, companies operating in the U.S. must ensure that they stay on top of regulatory compliance. The high-profile incidents of corporate impropriety at WorldCom and Enron have placed companies, and their CFOs in particular, under increased scrutiny. Addressing this “new reality,” an article in the November 2002 issue of *Financial Executive* magazine listed regulatory compliance as one of the three essential tasks today’s CFOs should complete to ensure the health and stability of their company.¹

WHY MONITORING REGULATORY ACTIVITY IS CRITICAL

The impact of government regulation on U.S. businesses is substantial. Estimates of the costs of regulation vary widely, but one respected study—by W. Mark Crain of George Mason University and Thomas D. Hopkins of Rochester Institute of Technology—placed compliance costs for federal regulations alone at \$843 billion in 2000.² Little data is available on the costs of state regulation, but these costs have grown steadily as states have increasingly sought to regulate commerce within their borders.

The costs of compliance include both direct costs such as the wages of employees carrying out regulatory responsibilities and capital expenditures (e.g., pollution control equipment), and indirect costs, such as lost productivity and missed business opportunities.³

Although regulatory agencies generally provide some period of time for organizations to comply with new rules, that lead time isn't always sufficient to allow smooth implementation of mandated changes. Active monitoring of regulatory activity allows companies additional time to prepare for those changes and the various direct and indirect costs that will be incurred.

While the costs of compliance are significant, the costs of noncompliance can be even greater. Some agencies are very active in regulatory enforcement. The Department of Labor's Occupational Safety and Health Administration (OSHA), for example, levies approximately \$100 million in fines each year.⁴ And penalties can have an impact at more than just the company level. Individual company officers can be held personally liable for violations and subject to fine or imprisonment.

The efficacy of regulatory monitoring extends beyond its ability to help organizations stay in compliance. Active monitoring also enables organizations to be proactive in the regulatory arena. With early notification of emerging regulations, organizations can have an impact on the rule making process in its earliest stage, potentially limiting the burden of new compliance costs.

Another benefit of regulatory monitoring which tends to be overlooked is its potential for providing business opportunities. The compliance consulting industry is a perfect illustration of this point; the industry has grown rapidly as companies have increasingly sought outside assistance with meeting their compliance requirements.

WHY MONITORING REGULATORY ACTIVITY IS DIFFICULT

Monitoring state and federal regulatory activity is a complicated task. On top of the sheer volume—some 30,000 measures proposed annually—there is so much variation among the nearly 6,000 state and federal regulatory agencies, state-to-state and even department-to-department, that determining which measures will actually impact a particular organization can be extremely time-consuming.

More than 30,000 new regulations are proposed annually by more than 6,000 state and federal agencies.

Recent examples of the stiff penalties issued by OSHA:

June 18, 2003 - Pawtucket, Rhode Island -

Demolition contractor fined \$258,300 for failing to safeguard workers against crushing and fall hazards at Lawrence, Mass. demolition site

June 16, 2003 - Hugo, Oklahoma -

Three companies fined \$427,500 for "confined space" violations

Examples of idiosyncrasies in the official reporting of regulatory information:

The Oklahoma Corporations Commission, which regulates the state's oil industry, only publishes adopted rules in its state register. Proposed measures are published in newspapers and on the agency's web site.

Arizona, Florida, Maine, North Carolina and Oregon do not generally publish hearing information with preliminary rule announcements. When public hearings are later scheduled, the hearing information is just added to the original announcement, making it appear like a new preliminary rule.

Even determining which agencies regulate a specific industry can be a challenge. California manufacturing firms, for example, are overseen on matters relating to the workplace and employment by the Department of Labor, the Equal Employment Opportunity Commission (EEOC) and the National Labor Relations Board at the federal level, and by the California Department of Industrial Relations and the Department of Fair Employment and Housing at the state level.⁵

While many agencies have taken steps to inform businesses about their responsibilities under existing regulations, as well as about proposed changes to those regulations—through publications and Web sites, for example—there is no single government source, federal or state, that can provide businesses with a complete accounting of every federal and state regulatory requirement that applies to them.

Moreover, relying on the regulatory agencies for information can be problematic. It is often difficult to identify the appropriate department or individual to contact. And even if an agency has developed programs to help organizations learn about relevant regulations, it is often too costly and time consuming to do the research that is required. Idiosyncrasies in the way each of the thousands of state and federal agencies report their information, and frequent inaccuracies in that information, only complicate the process.

HOW STATE NET CAN HELP

State Net maintains a staff of thirty dedicated to the task of monitoring state and federal regulatory activity. These regulatory specialists cull essential information—including the full text of all state measures, agency hearing schedules and contact information—from every state and federal regulatory agency, using official government sources. To facilitate timeliness, electronic sources are utilized wherever they are available; in most cases, information is made available to clients within 24 hours of agency publication.

State Net's regulatory specialists are intimately familiar with the idiosyncrasies of each state and agency. They know when each agency is supposed to publish its information and who to call when a deadline is missed. They know where to find all of the regulatory information that isn't published in the state registers, and the peculiarities to watch out for when dealing with a particular agency, so nothing is missed, the information is accurate, and no time is wasted.

Regulatory reporting that alerts you to regulations critical to your operations in time for you to take action.

Once the official data are received, the specialists write clear, concise summaries for every proposed measure, and index them by industry and issue, using State Net's proprietary subject-indexing system. Finally, they link each status action to the full text version of the regulation and review all of the information for accuracy—something government agencies are not obligated to do themselves—before entering it into StateNet's database.

Working 16 hours a day, State Net's regulatory team logs over 10,000 phone calls to agency contacts, processes over 50,000 status actions, and catalogues over half a million pages of text each year. The result of this effort is a regulatory service that allows clients to identify the specific regulations that are relevant to their operations with the click of a button and monitor their activity with ease, leaving them more time for taking action.

Every day, more businesses are realizing the economic importance of monitoring government regulation. State Net's monitoring system makes this task much easier, and allows businesses to respond quickly and effectively to the significant challenges and opportunities that government regulation presents.

Regulatory Reporting

Five critical elements to success:

- 1. Issue customization**
Do you see everything you need to see and nothing else?
- 2. Easy information access**
Can you monitor critical regulatory developments at a glance? Can you quickly access full details when needed?
- 3. Experienced support**
When you call for more information, clarification or research assistance, do you reach a live and knowledgeable person?
- 4. Reliability**
Does your information source guarantee their information accuracy?
- 5. Complete coverage**
All your efforts are for naught if you miss the one regulation with a million dollar price tag. Does your source thoroughly cover the 6,000 state and federal regulatory agencies?

FOOTNOTES

1 "Essential Tasks for Today's CFOs," *Financial Executive*, Nov. 2002, p.28.

2 W. Mark Crain and Thomas D. Hopkins, "The Impact of Regulatory Costs on Small Firms," Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, p.4.

3 "Regulatory Burden: Measurement Challenges and Concerns Raised by Selected Companies," General Accounting Office, Nov. 1996, p. 45.

4 Kenneth L. Deavers, et al, *A Century of Progress, A Century of Change: The American Workplace 1999*, Employment Policy Foundation, 1999, p.38.

5 "Business Regulation: California Manufacturers Use Multiple Strategies to Comply With Laws," General Accounting Office, Sept. 1998, p. 3.



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State Net was created, more than three decades ago, to deliver timely and reliable information to government affairs professionals. Today, the company's services are widely recognized as the standard by which all others are measured. State Net provides online legislative and regulatory tracking, issue-based consultation and political analysis. With nearly 300 employees and offices in major state capitals, they serve more than 1,200 organizations nationwide.