



Archive Search



Free E-mail Newsletter | Institutional Pricing | Reprints | Subscribe | Contact Us

- Home
- Archive Search
- News Sections**
- Ocean Shipping
- Surface
- Logistics/Technology
- Air Cargo
- Customs/Trade
- Analysis
- Supply Chain Mgmt.
- Regional News**
- Shipping Digest
- Pacific Shipper
- Gulf Shipper
- Florida Shipper
- Canadian Sailings
- Data Center**
- Industrial Price Index
- Oil Prices
- Tools & Guides**
- Sailing Schedules
- Handbook for Intl. Trade
- Review & Outlook
- Resources**
- Logistics Career Center
- Customs Update
- Federal Register Watch
- Industry Links
- Magazine**
- Subscribe
- Current Issue
- Editorial Calendar
- Advertise
- About Magazine
- International Users
- Information**
- Advertise

Analysis

Email a Friend

Print Article

[More Sailing Schedules](#)

Legal Brief: Love thy regulator

Updated 1:14 p.m. ET, Fri Feb 10, 2006

By Bruce Paulsen

The JOURNAL of COMMERCE ONLINE

Twenty-five years ago, Ronald Reagan promised deregulation and smaller government. Thirteen years ago, Bill Clinton promised to "reinvent government", and reduce federal regulation. Similar promises have been made at the state and local levels over the years.

It is 2006, and, not surprisingly, government has not been reinvented. Regimes are more extensive than ever, particularly in sectors such as transportation, where national security concerns have given rise to extraordinary regulatory measures in addition to overall regulatory creep.

Even before September 11, 2001 and the more-or-less simultaneous corporate scandals, it was important for those businesses operating in a regulated environment to follow this commandment: Love Thy Regulator.

Administrative enforcement action, and civil and criminal sanctions, have always been a risk for those who take regulation lightly. Those who regularly run afoul of regulations -- even if one could argue the merits of their alleged transgressions -- run the risk that the regulatory agencies might develop institutional suspicion and anger towards the regulated company. The old adage is true: there is nothing more dangerous than an angry bureaucrat.

And, the angry bureaucrat is more active than ever, and more on the lookout for corporate misbehavior. Even minor examples are instructive. Recently, a tanker was boarded for a routine Coast Guard inspection. When the inspector suspected he wasn't being told the truth, the ship was delayed for days for a top-to-bottom inspection. Even a hint of falsehood or evasiveness can give rise to instant regulatory scrutiny.

In December, MSC Ship Management of Hong Kong was fined \$10.5 million after managers directed crew members to lie to investigators about illegal dumping of pollutants and senior

More Headlines

[Europe View: Disbelief over U.S.-Dubai fight](#)

[Legal Brief: Love Thy Regulator](#)

[Europe View: Transport braces for change](#)

[Letters: Few delays for Panama Canal transits](#)

[Europe View: Transport a drag on Russia plans](#)

[Making the loser pay](#)

[Katrina a lesson for DHS, traders](#)

[Wins for cargo in highway bill](#)

[Opinion: In LA, politics trumps port planning](#)

[Europe View: Ports could break peak supply chain](#)

[Institutional Pricing](#)
[Permission/Reprints](#)
[E-mail Newsletter](#)
[JoC Conferences](#)
[Careers @ CBMI](#)
[Feedback](#)
[About Us](#)
[Contact Us](#)

engineers destroyed documents in the case. There are many examples of the sweep of the consequences for non-cooperation with government investigations -- just ask Martha Stewart.

Accordingly, it is more important than ever to establish good, working relationships with the governmental agencies that regulate your business. For established businesses, this means increasing the level of communication and cooperation with regulatory agencies, especially if there is an inspection or audit. If anything, the consequences of failing to cooperate with regulatory agencies -- even failing to cooperate on a timely basis -- can have enormous consequences. It is incumbent on executives, compliance officers, in-house counsel and lower-level employees who liaise with governmental agencies, to get to know the personnel at the agencies they regularly do business with, from high-level staff, to mid-level bureaucrats and the inspectors who attend at your offices and facilities.

It is also useful for your in-house and outside lawyers to have a reputation for integrity with the government lawyers that they deal with.

In certain industries, recent regulatory changes have been instituted in order to create cultural changes. A culture of communication and cooperation with regulatory agencies is important to survival under today's regulatory regimes. If your corporate culture is such that regulation is treated as a troublesome paper chase, danger lurks. As much energy and efficiency as it drains from an organization, compliance together with productive regulatory relationships is much better than government sanction -- or even the threat of it -- when it comes to the bottom line.

Bruce G. Paulsen is an attorney with Seward & Kissel LLP of New York, and is a member of the firm's litigation group specializing in commercial and maritime disputes.

Note: This published material is copyrighted by Commonwealth Business Media Inc. for the exclusive use of our paid subscribers. Reproduction, retransmission, or reuse of this material in any form is forbidden without prior permission from CBMI. Reproduction, retransmission or reuse of this material without such permission is illegal.

© [Copyright](#) 2006 Commonwealth Business Media. All rights reserved.

[Legal disclaimer](#) | [Privacy policy](#) | [Terms & conditions](#)

Ads by Goooooogle

[Logistics Management](#)

State of the Art Warehouse and Road Transportation Systems
www.pssdist.com

[Freight Logistics Service](#)

Proven Quality & Dependability. Get An Instant Online Quote!
www.Freight101.com

[Shipping services](#)

Ocean export, Air export & Trucking Domestic heavyweight Air Freight
www.jccinternational.com

[Literacy Cambodia](#)

Help Educate Children. Learn More & Plan Your Trip of a Lifetime.
www.roomtoread.org

Advertise on this site