

Foreign Trade Regulations

Mandatory AES

Foreign Trade Division
June 24, 2008



Today's Topics

Foreign Trade Regulations (FTR)

- **Legal Requirements**
- **Impact to the Trade Community**
- **FTR Changes & Additions**
- **Electronic Export Information (EEI)**
- **Types of Shipments**
- **Filing Time Frames**
- **Penalty Provisions**

Outreach Programs

Legal Requirements

Census Bureau

Foreign Trade Regulations

- 15 CFR, Part 30 Section 30.1-30.99

Bureau of Industry and Security (BIS)

Export Administration Regulations

- 15 CFR, Parts 700-799

Legal Requirements

State Department

International Traffic in Arms Regulations (ITAR)

- Title 22 CFR, Parts 120 – 130

Customs and Border Protection

Customs Regulations

- Title 19 CFR, Parts 1 – 199

Informed Compliance Strategy

- Final Rule of Regulations effective on July 2, 2008
- USPPIs, Authorized Agents, and Carriers have 90 days to comply
- CBP will not issue penalties during the 90 day compliance timeframe
- After September 30, 2008, Paper SED Filers will be in violation of the FTR.

Enforced Compliance Strategy

- **CBP** – Field Violations
- **ICE** – CBP Referrals
- **OEE** – Census Bureau Referrals

Impact to Trade Community

- Required Filing Citations to Carriers
 - ITN Proof of Filing Citation
 - Exemption Citation
 - Post Departure Citation
- Meet Filing Time Frames – Know Who Files, What is Filed, and When to File

FTR Changes & New Information

CURRENT

FTSR

SED

Option 2

Option 4

NEW

FTR

EEI

Pre Departure

Post Departure

New FTR Additions

- Appendices & Definitions
- Filing Timeframes
- Penalty Provisions

FTR Appendices

- **Appendix A- Sample POA/Written Authorization**
- **Appendix B- AES Filing Codes**
- **Appendix C- Proof of Filing Citations
and Exemption Legends**
- **Appendix D- Exemptions and Exclusions**
- **Appendix E- FTSR to FTR Concordance**
- **Appendix F- FTR to FTSR Concordance**

When is an EEI Record Required? (FTR 30.2)

An EEI record must be filed for exports of physical goods when shipped as follows:

- **From U.S. to foreign countries**
- **Between the U.S. and Puerto Rico**
- **From Puerto Rico to foreign countries**
- **From Puerto Rico to U.S. Virgin Islands**
- **From the U.S. to the U.S. Virgin Islands**
- **Licensable commodities**

Two Types of Transactions (FTR 30.3)

- **Export Transaction (Standard):**
USPPI files the EEI record or authorizes a U.S. forwarder, or other agent to file the EEI.
- **Routed Export Transaction:**
Foreign principal party in interest (FPPI) authorizes a U.S. forwarder, other agent or USPPI to file the EEI.

Export Transaction (FTR 30.3 (c))

USPPI Responsibilities:

- Files or Authorizes U.S. Forwarder, or other agent to file the EEI
- Provide POA / Written Authorization to Forwarder
- Responsible for license determination

Forwarder Responsibilities:

- Provide transportation data
- File export information via the AES
- Provide ITN to carrier

Routed Export Transaction (FTR 30.3 (e))

USPPI Responsibilities:

- **Must provide forwarder with commodity data & licensing Information**
- **Obtain copy of the EEI filed by the forwarder**
- **USPPI may obtain POA from FPPI to complete and file the EEI record**
- **Obtain a writing from the FPPI**

Forwarder Responsibilities:

- **Obtain a POA or Written Authorization from the FPPI to file the EEI**
- **Complete and file EEI record**

ITAR Filing Time Frames (FTR 30.4 (b)(1))

USML Shipments

Air: 8 hours prior to scheduled departure time

Truck: 8 hours prior to truck arriving at U.S. border

Rail: 24 hours prior to train arriving at U.S. border

Vessel: 24 hours prior to departure

FTR Filing Time Frames (FTR 30.4 (b)(2))

Non-USML Shipments

Vessel:	24 hours prior to departure
Truck:	1 hour prior to truck arriving at U.S. border
Air:	2 hours prior to scheduled departure time
Rail:	2 hours prior to train arriving at U.S. border
Mail:	2 hours prior to export

Post Departure Filing (FTR 30.5 (c))

- Only currently approved filers may use Post Departure filing.
- Moratorium placed on the acceptance of new applicants pending further review.

Confidentiality of the Data (FTR 30.60)

- **Only Summary Statistics are published**
- **Disclosed to USPPI or the USPPI's Agent**
- **National Interest Determination (NID)**
 - **Yes – BIS, CBP, ICE, BEA and BLS**
 - **No – IRS, Foreign governments and private attorneys**

Criminal Penalties (FTR 30.71(a))

- **USPPI or Authorized Agent who knowingly:**
 - Fails to file
 - Files false and misleading information
 - Continues to participate in illegal activities
- **Fines:**
 - Up to \$10,000 per violation
 - Imprisonment for not more than five years
 - Both

Civil Penalties (FTR 30.71(b))

USPPI or Authorized Agent or Carrier:

- Late Filings
 - Up to \$1,100 per each day delinquency or up to a maximum of \$10,000 per violation
- Other Violations
 - Up to \$10,000 per violation

Penalties may be mitigated

Remission and Mitigation (FTR 30.72(d))

- **Violation History**
- **Mitigating Factors**
 - Level of experience
 - Voluntary disclosure
 - Compliance training

Delegation of Authority (FTR 30.73)

Department of Commerce

- Bureau of Industry and Security's Office of Export Enforcement

Department of Homeland Security

- Customs and Border Protection
- Bureau of Immigration and Customs Enforcement

AES Compliance Seminars



- **Sponsored by NCBFAA and its affiliates**
- **2 day program with FTD Presenters**
- **Tentative NCBFAA AES Compliance Seminar & Workshop locations:**
 - Laredo, TX July 22 & 23
 - Savannah, GA September 24 & 25
 - Chicago, IL October 8 & 9
 - San Juan, PR October 14 & 15
 - Dallas, TX October 21 & 22
 - El Paso, TX November 4 & 5
 - Los Angeles, CA November 18 & 19
 - Norfolk, VA December 2 & 3

Webinars

- **Hosted by the International Trade Administration**
- **Tentative Scheduled Webinars:**
 - July 15, 2008
 - July 17, 2008
 - July 22, 2008
 - July 24, 2008
 - July 29, 2008
- **5 Modules:**
 - Data Elements
 - Filing Requirements
 - Parties to an Export Transaction & their Responsibilities
 - Informed & Enforced Compliance
 - AES Overview

CBP Training Videos

- **7 Separate Presentations**
 - Implementation of the FTRs
 - The AES
 - When Electronic Export Information is Required
 - Types of Transactions and Parties Involved
 - Value – What Should Be Reported
 - Mandatory AES Fields
 - Penalties and Mitigating Factors
- **Educate Customs Ports' Officers on the new regulations.**

Port Visits

- **Visit Top 10 Paper Filing Ports**
- **Scheduled Port Visits**
 - **Conducted after the Effective Period**
 - **Conducted after the Implementation Period**
- **Representatives from FTD will Conduct the Visits**

Town Hall Meetings

- **Sponsored by Foreign Trade Division**
- **Cost: No Charge**
- **4 hour program with FTD Presenters**
 - Highlighting new regulations (FTR)
- **PM workshop**
- **Tentative Town Hall Meeting Locations:**
 - St. Louis, MO
 - Miami, FL
 - Laredo, TX
 - Dallas, TX
 - San Diego, CA

AES Compliance Review Program

Goal:

- Identify, educate and provide corrective actions to companies who are not in compliance with the Foreign Trade Statistics Regulations

Objectives:

- Help companies understand exporting reporting requirements
- Help companies develop and implement best practices
- Avoid costly encounters with government agencies
- Let the Foreign Trade Division help you get it right the first time

Chief Findings of Phase I

- **Lack of Understanding of the Foreign Trade Statistics Regulation**
- **Lack of Communication between Freight Forwarders and USPPI**
- **Ability to make corrections without being penalized**

Phase II AES Compliance Review Program

- **Companies reporting rough diamonds via the Kimberley Process Certification Scheme**
- **Foreign Trade Zones**
- **Option 4 Postdeparture Filers**
- **Misclassifications and incorrect unit of measure**

Foreign Trade Division

Call Center: 800-549-0595

Option 1: Automated Export System

Option 2: Commodity Analysis

Option 3: Regulations, Outreach and
Education Branch

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