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Client Alert

October 15, 2003

BUSINESS AND FINANCE

Mandatory Electronic Filing for Exporters

Any client who ships products internationally (whether or not an export license is required) should be made aware of the upcoming deadline for application of the new system for filing Shippers' Export Declarations (SEDs) through the Automated Export System. Freight forwarders are generally aware of the deadline and filing requirements, but the filing responsibility (and ultimate liability) rests with the exporter of record — *not* with the freight forwarder or customs broker.

On June 17, 2003, the *Federal Register* announced mandatory filing of the SED on the Automated Export System (AES) for all items on the Commerce Control List (CCL) and the United States Munitions List (USML). This mandate was put into effect on August 18, 2003, with a transition period until October 18, 2003. *By October 18, 2003, SEDs for all shipments meeting the above criteria must be submitted through the AES. In addition, exporters must use a newly-revised SED by the October 18 deadline.* The SED is used by the U.S. Census Bureau to collect trade data and by the Commerce Department to enforce export regulations. By establishing mandatory AES filing for items on the CCL and the USML, the U.S. government can keep better track of export activity for controlled items.

SED Overview

In general, an SED is required in the following cases:

- Any shipment that requires an export license
- Any export shipment where the value of commodities classified under at least one Schedule B number is greater than \$2,500
- Shipments to certain U.S. territories, such as Puerto Rico and the Virgin Islands

There are some SED exceptions (*e.g.*, non-licensable shipments to Canada) and other special circumstances under which an SED

may be required. For complete information on SED requirements, read the following publication from the U.S. Census Bureau: *The Correct Way to Complete the Shipper's Export Declaration* (see <http://www.census.gov/foreign-trade/regulations/forms/correct-way-to-complete-the-sed.pdf>).

The Census Bureau has revised the SED to include information on the forwarder's federal employer ID number. Exporters must use the new SED beginning October 18, 2003. The following is a link to the new SED: <http://www.census.gov/foreign-trade/regulations/forms/7525v-071803.pdf>.

AES Requirements

In 1997, AES was introduced as the electronic alternative to submitting a paper SED. It was designed to improve export statistical data, streamline reporting requirements, and facilitate the documentation and law enforcement process related to exports.

Until now, submission of the SED via AES was voluntary, the alternative being to submit the SED on paper. With the new ruling, however, it is required that the U.S. Principal Party of Interest or authorized agent file an SED through AES for all exported items on the CCL and the USML. SEDs for any shipment requiring an export license must also be filed via AES. The following are links to help exporters determine whether their products are on these lists: Alphabetical Index to the Commerce Control List (see <http://w3.access.gpo.gov/bis/ear/pdf/indexccl.pdf>) and U.S. Munitions List (see http://www.pmdtc.org/docs/ITAR/22cfr121_Part_121.pdf).

With this new regulation, it is extremely important that exporters correctly classify their products. Exporters who knowingly or inadvertently misclassify their products and who fail to file SEDs via AES when required will be penalized for both the incorrect classification AND the failure to file via AES.

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For full information on AES, including registration, instructions and training, visit the Census Bureau's official AES web site: <http://www.aesdirect.gov>.

