Filing your EEI into AES
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EEI - Electronic Export Information

A declaration must be made to the U.S. Government for nearly all exports. This declaration is the Export Clearance process in the U.S.

This declaration is required to be filed electronically to the US government. The data included in this declaration is called Electronic Export Information or EEI and is filed via the Automated Export System or AES.

The EEI information is comprised of commodity details along with scheduled transportation details.

This process replaces the paper declaration that was known as the Shipper’s Export Declaration – SED.
AES - Automated Export System

An automated system created and maintained by U.S. Customs and Border Protection (CBP) in cooperation with the Bureau of Census.

The Confirmation number received after successfully transmitting EEI data in the AES system is known as the ITN number (Internal Transaction Number).

The ITN, or an appropriate exemption legend, must be annotated on the shipping document that is used to transport the goods for export.

The data collected is shared with other US Government agencies (CBP, BIS, Dept of State, OFAC, etc.)
Bureau of Census

The Foreign Trade Division (FTD) of the U.S. Bureau of the Census, under the Department of Commerce (DOC),
Census is responsible for collecting and publishing foreign trade statistics for U.S. Imports and Exports
Bureau of Industry and Security

Department of Commerce, Bureau of Industry and Security (BIS)

The Bureau of Industry and Security is charged with the development, implementation and interpretation of U.S. export control policy for dual-use commodities, software, and technology. Dual-use items subject to BIS regulatory jurisdiction have predominantly commercial uses, but also have military applications.
Customs and Border Protection

Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP), including among others the Fines Penalties and Forfeiture division

Provided the mechanism for filing the data electronically and assessing and collecting penalties
Legal Background

Trade Act of 2002 mandated prior notification to government of import & export shipments


1. Require Electronic Filing (AES) for all Export Declarations
2. Set new filing deadlines
3. Set new, higher penalties and gave enforcement power
4. Census delegated penalty issuance and resolution to CBP

June 2, 2008 – Final Rule published in Federal Register

July 2, 2008 – Effective date of new rules

Sept. 30, 2008 – Implementation date for rules

Jan. 2, 2009 – CBP publishes guidelines for mitigation of AES late filing penalties

Feb. 1, 2009 – CBP begins enforcement of penalties
Electronic Export Information (EEI) - Exemptions

If the export shipment does not require an EEI filing then you must report the proper AES exemption notation of the shipping document.

AES exemption statements must be presented on the shipping documents to the carrier with the same timing requirements as ITN.

The presentation of this electronic record to the government indicates your intention to export goods; any false or incorrect statement made on this electronic record could possibly be the subject of a penalty.
Transportation Document Format

EEI required to be sent and ITN# successfully returned through AES

AES: X2010422023596

EEI not required to be sent if one or more filing exemptions apply to shipment

NO EEI Sec. 30.36.
NO EEI Sec. 30.37(a).
Filing Time Limits

The requirement is that the exporter or their agent must transmit EEI data and provide the filing citation – or exemption legend to the exporting carrier within the specified time period.

<table>
<thead>
<tr>
<th>Mode</th>
<th>Filing Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vessel</td>
<td>24 hours prior to cargo being loaded for export at U.S. port</td>
</tr>
<tr>
<td>Air &amp; Courier</td>
<td>2 hours prior to departure from U.S</td>
</tr>
<tr>
<td>Rail</td>
<td>2 hours prior to arrival at the border with intent to cross</td>
</tr>
<tr>
<td>Truck</td>
<td>1 hour prior to arrival at the border with intent to cross</td>
</tr>
</tbody>
</table>
Data Elements (Sec. 30.6 FTR)

USPPI Name / EIN
Address
Consignee Name / Address
Related / Non-Related
Mode of Transportation
Country of Ultimate Destination
Plant or Exporter State
SCAC or IATA
Job Number
Vessel / Airline Name / Truck Name Port of Discharge

U.S. port of export
Departure or Sailing Date
Commodity Description
Domestic / Foreign
HTS or Schedule B numbers
HTS/Schedule B quantity and units
Shipment value (FAS, US$)
Shipment weight (Gross weight kgs)
ECCN Number, if it applies
License Number, if it applies

List of Schedule B numbers and descriptions can be found at:
http://www.census.gov/foreign-trade/aes/documentlibrary/notice_postdeparture.html
Filing Requirements

The U.S. Principal Party in Interest (USPPI) to be reported is generally the party in the US that benefits financially from the sale for export, but there are exceptions.

- We must provide the address (including valid Postal Zip code) for the location where freight began its journey for export.
- This can be, and often is, different than the USPPI address as the freight often originates in a plant or warehouse located at other than the corporate HQ or was sourced from a vendor.

USPPI information:

Complete information on the USPPI including:

- Full Company Name
- Address (zip code is essential)
- Contact Name
- Telephone Number
- Federal ID number or Employer ID Number

Shipper on the B/L does not have to be same as USPPI
Filing Requirements – Cont.

For goods exported from US via a Canadian port:
Border crossing point, mode of transportation & date
of crossing are required elements.

For goods Destined for Mexico:
The Mexican State & Mexican City is required.
Examples

A company in Dallas, TX has a polymer plant located in Little Rock, Arkansas and a warehouse in Houston, TX.

Example 1: The freight is shipped directly from the plant to the port of export.

We must show the address of the plant in Arkansas, not the address of the exporter’s customer service and logistics center in Dallas.

Example 2: The freight was stored in the warehouse prior to export and consists of different products and batches from various plants.

The address of the warehouse, which is the origin point of the freight’s direct journey for export, must be reported as the USPPI address.
Responsibilities of the USPPI or filing agent

Transmitting complete and accurate information in AES.

Transmitting information to AES in a timely manner in accordance with the provisions set forth in the filing options (2 or 4).

Responding timely to any condition identified as a “fatal” error, a warning or a verification request.

Providing the exporting carrier with the required ITN or exemption legend within the prescribed time limits

Transmitting a correction or a cancellation to information under AES, as soon as it is known.

Maintaining all necessary and proper documentation related at an AES Transaction.
Points of Concern

Routed Transaction:

A transaction in which the FPPI [Foreign Principal Party in Interest – the buyer] authorizes a U.S. agent to facilitate export of items from the US on its behalf and to file the EEI.

This can cover all Incoterms from EXW to FOB, but only EXW terms generally require buyer to do export clearance.

USPPI must provide certain EEI data to FPPI’s designated agent but is not required to provide a power of attorney.

If USPPI to file EEI must have written authorization from FPPI.

Sold En Route:

When cargo is sold on the water after export from the U.S. (sometimes referred to as floating warehouse), EEI information must be corrected to show final consignee. If there is more than 1 final consignee, new AES record/s must be created, and transmitted in accordance with Census requirements.
Confidentiality

The EEI information is kept confidential by Census and the information is not to be shared with any foreign government.

Confidentiality of export information is covered by Title 13, U.S.C., Chapter 9, Section 301(g) and Title 15, Code of Federal Regulations, Section 30.90-30.91.
Enforcement

- The EEI is also used by the US Government as an enforcement tool; incomplete or inaccurate data is a violation with a possible penalty assessed.
- CBP is the primary U.S. Agency equipped to physically inspect cargo and intercept illegal shipments within U.S. borders, and is the primary agency enforcing export controls.
  - Census has no enforcement authority or internal mechanism to collect fines
  - Census uses CBP to issue penalty notices and collect fines
- Like BIS, CBP will go after the shipper, freight forwarder and carrier
- Cargo can be seized by CBP under certain circumstances
Penalties

Every agency involved in controlling exports and/or collecting export data has regulatory enforcement mandates, as well as administrative penalties and sanctions for violations.

The carrier may not load cargo without first receiving either the related electronic filing citation or an appropriate exemption statement for the cargo or a penalty can be assessed against the carrier as well as the exporter.
Civil Penalties

Failure to file or delayed filing violations.

Penalty not to exceed $1,100 per day, but not more than $10,000 per violation

Filing false/misleading information, furtherance of illegal activities

Penalty not to exceed $10,000 per violation; may be in addition to any other penalty

Forfeiture penalties.

In addition to any other civil penalties, any property involved in a violation may be subject to seizure and forfeiture
Criminal Penalties

Failure to file or submission of false or misleading data
Failing to file or knowingly submitting false or misleading export information through the AES
- a fine not to exceed $10,000 or imprisonment for not more than five years, or both, for each violation

Furtherance of illegal activities.
Knowingly reporting any information through or otherwise uses the AES to further any illegal activity
- a fine not to exceed $10,000 or imprisonment for not more than five years, or both

Seizure and Forfeiture Provision.
Provides that the following may be seized and forfeited to the United States:
(i) goods or tangible items that were the subject of the violation
(ii) property used in the export or attempt to export that was the subject of the violation
(iii) property constituting, or derived from any proceeds obtained as a result of violation
When Does a Violation Occur?

**FAILURE TO FILE**

Government discovers that there is no AES record by the date that the record is required

- The discovery is made and communicated to the USPPI, authorized agent, or other party before the violation is corrected.
- Any AES record filed later than 10 days after the due date will be considered a failure to file, regardless of whether the violation was or was not discovered by the government.

**LATE FILING**

When the AES record is filed beyond the due date for such filing.

**OTHER VIOLATIONS (Not an Exhaustive List):**

- Incorrect value for shipment
- Other incorrect information in AES: incorrect USPPI, consignee, end-user, commodity description, or port of export.
- Failure to cite license code or license number
- Failure to obtain Power of Attorney for AES transmission
- Failure to identify transaction as a routed transaction
- Failure to correct information in AES as the changes become known to the filer
- Vessel name
- Export date
- Failure to provide carrier with proof of filing citation or exemption legend within time limits
- Failure to retain all records relating to the export shipment for a 5-yr. period from the date of export.
Customs Mitigation Guidelines

MITIGATING FACTORS:

1. First-time USPPI or authorized agent, FPPI, carrier, etc.
2. Voluntary self-disclosure of the violation (*Extraordinary Mitigating Factor*).
3. Clear documentary evidence of remedial measures undertaken to prevent future violations.
4. Exceptional cooperation with CBP, Census, or BIS
5. The violation was an isolated occurrence.
6. The party has provided substantial assistance in the investigation of another person.
7. The party demonstrates that it has a systematic export compliance program.
Customs Mitigation Guidelines

*Late filing of the export information in AES* –

- The notice of penalty will be issued in an amount that reflects $1,100 per each late day, up to a maximum of $10,000.

Upon demonstration of mitigating factors, the following can be applied:

- First Recorded Offense - $250 per day to $1,500
- Second Recorded Offense - $500 per day to $2,500
- Third Recorded Offense - $750 per day to $3,500
- Fourth and Subsequent Recorded Offenses - $1,100 per day up to a maximum of $10,000
Customs Mitigation Guidelines

Failure to file all the necessary information in AES, the filing of incorrect information in AES, or the failure to comply with some other requirement of the FTR

The penalty will be issued for $10,000 with mitigation allowed as follows:

1. First Recorded Offense - $500 to $2,500
2. Second Recorded Offense - $750 to $3,500
3. Third Recorded Offense - $1,000 to $5,000
4. Fourth and Subsequent Recorded Offenses - $2,000 to $10,000

For first offenses, enforcement agencies may take alternative action to assessment of penalties including:

1. Option to educate and inform the persons involved in the transaction
2. Issuance of warning letters
3. Company outreach
AGGRAVATING FACTORS (Not an exhaustive list):

1. Several violations in the same export transaction (e.g., wrong port code; incorrect value; missing required data; violations of the regulations of other agencies in addition to the Census violation).

2. Circumstances suggest the intentional nature of the violation (e.g. wrong value where invoices or other documents covering goods show correct value; claiming post-departure to avoid pre-departure filing when filer is not an approved post-departure filer).

3. High number of violations in preceding 3-year period.

4. Evidence of criminal conviction for a related violation, such as a BIS violation.

5. The party exhibits a pattern of disregard for its responsibilities under U.S. export laws and regulations.

6. The party exports as a regular part of its business, but lacked a systematic export compliance effort.
Proposed Changes to EEI and AES

Notice of Proposed Rulemaking (NPR) in Federal Register on Jan. 21, 2011, these Include Proposed Substantive Changes and Corrections

Option 4 or Post Departure filing of EEI

1. Companies currently approved for post departure reporting privileges must reapply when final rule published
2. Only shippers of certain agricultural and bulk certain items will qualify.
3. Does not include any shipments in bulk of chemicals, oil or similar items
4. Post departure EEI filing timeframe reduced from ten to five calendar days from the date of exportation

Other proposed changes

5. Exclusion legend would no longer be required on the bill of lading, air waybill, export shipping instructions or other commercial loading documents
6. An authorized agent must provide the USPPI with the ITN and date of export when the agent files the electronic export information in a routed transaction
7. the USPPI does not need to own or lease the facility where the goods actually begin the journey to the port of export in order for it to be listed as the USPPI address
8. Require the name of the country of origin rather than “F” for foreign and “D” for domestic goods
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Import topics on Wednesdays at 1:00PM Central
Export topics on Thursdays at 10:00AM Central

Registration is required for each event.
Upon successful registration, you will receive an email with logon details. (Please check your spam if you do not see information within 24 hours)
Upcoming Exports 101 Topics

Sep 15 - Filing your EEI info into AES
Oct 20 - Logistical Flows - Role of the Freight Forwarder
Nov 17 - Handling Airfreight 101
Dec 15 - Documenting your Hazardous Shipment
Jan 19 - What Regulations are important from which government agency
Feb 16 - Export documents, incl. B/L for air and ocean
Mar 15 - Recordkeeping
Apr 19 - Free Trade Agreements (US export perspective)

Upcoming Imports 101 Topics

Sep 14 - Entry Process / Role of CHB
Oct 5 - Federal Trade Commission / Made in USA verses Customs Country of Origin
Nov 9 - What to do when things go wrong
Dec 7 - Import Documentation
Jan 11 – Free Trade Agreements (US import perspective)
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Filing your EEI into AES