



AES Newsletter



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Clarification of New Transportation Security Administration (TSA) Requirement

by Autumn Banks, Regulations, Outreach, and Education Branch

The U.S. Census Bureau, Foreign Trade Division, recently received several inquiries from the trade community regarding the Transportation Security Administration's (TSA) Indirect Air Carrier Security Program Regulations. These regulations became effective in February 2009 and govern requirements for indirect air carriers, including the Known Shipper Program that prohibits the release of flight details on cargo exported from the United States via passenger aircraft. **The requirements for the TSA program do not impose any restrictions on providing mandatory advanced information to the parties in an export transaction who are responsible for the Automated Export System (AES) submission as required under Title 15, Part 30, Foreign Trade Regulations (FTR).** Section 30.6 of the FTR requires the AES submission and the release of the proof of filing citation be delivered to the carrier at least 2 hours prior to departure for shipments via air. For more information on the Indirect Air Carrier Programs, please contact the TSA at 571-227-3555. For more information on the FTR, please contact the Regulations, Outreach, and Education Branch at 800-549-0595, menu option 3.

Enforcement of the Foreign Trade Regulations (FTR)

by Kiesha Pickeral, Regulations, Outreach, and Education Branch

The Customs and Border Protection (CBP) published guidelines for the Imposition and Mitigation of Civil Penalties for failure to comply with the Foreign Trade Regulations (FTR) in Title 15, Part 30, on January 2, 2009. The guidelines became effective on February 1, 2009. As a result, violations incurred after February 1, 2009 are subject to the fines and penalties outlined in the guidelines and sections 30.70–30.72 in the FTR. Penalties for violations of the FTR may be issued to all parties involved in

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Enforcement of the Foreign Trade Regulations (FTR)—Con.

the export transaction, including the U.S. Principal Parties in Interest (USPPIs), authorized U.S. Agents, and carriers—up to \$10,000 per violation.

Some of the common violations highlighted in the guidelines include, but are not limited to:

- Failure to file.
- Late filing.
- Reporting incorrect value.
- Failure to obtain the power of attorney or written authorization.
- Failure to correct information in the Automated Export System (AES) as the changes become known.
- Failure to report the proof of filing citation or exemption legend on the required manifest.
- Failure to provide the USPPI or authorized U.S. Agent with changes to the date of export or the port of export.

Civil penalties may be mitigated depending on various factors such as violation history (i.e., the violation is the first occurrence of a violation for the USPPI or authorized U.S. Agent); submitting a voluntary self-disclosure in accordance with the FTR, Section 30.74; or the violating party demonstrates that it has a systematic export compliance effort in place.

To access the mitigation guidelines in its entirety, please visit

www.cbp.gov/linkhandler/cgov/trade/legal/bulletins_decisions/bulletins_2009/vol43_01022009_no2/43genno2.ctt/43genno2.pdf.

Filing a New Shipment Versus Making a Correction to a Previously Filed Shipment

by Wendy Peebles, Automated Export System Branch

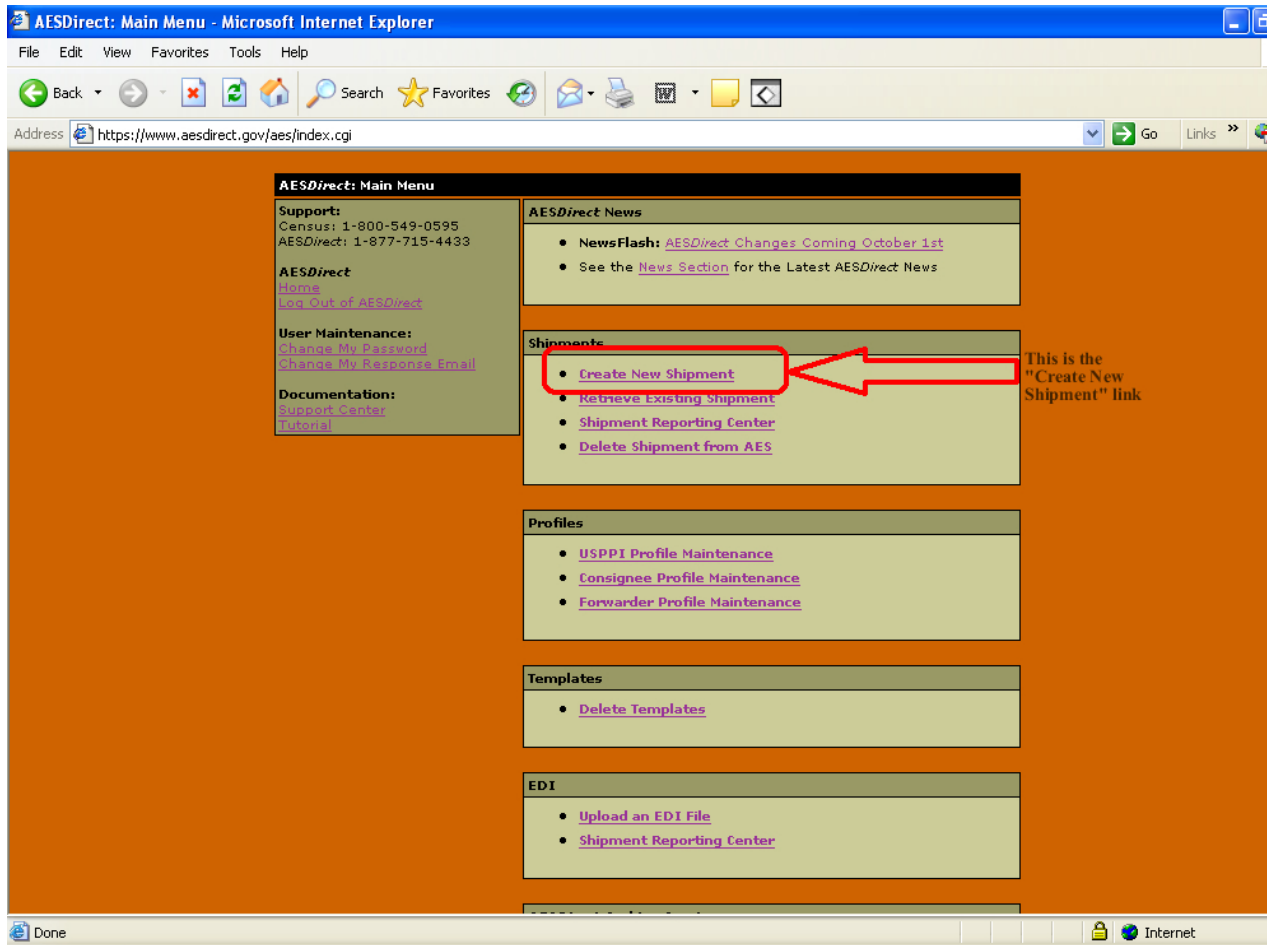
Upon analysis of the export data, the Automated Export System (AES) staff discovered that AESDirect filers, using the AESPcLink interactive filing method and the AESDirect Web application, are retrieving shipments previously accepted and entering all new export data into the previously filed shipment keeping the original Shipment Reference Number (SRN). See Foreign Trade Regulations (FTR) Letter number 2. This is not an acceptable procedure for filing new shipments. When this occurs, the original or previously filed shipment is overridden, thus removing it from the statistics. Further, this creates inconsistencies in the data collection process, negatively impacting our trade statistics. The correct procedure for filing a new shipment is to click on the “Create a New Shipment” link from the main menu and complete the required data elements. Refer to page 9 of the AESDirect User Guide, which can be downloaded by going to www.aesdirect.gov. Census Bureau staff strongly recommend that you refer to the AESDirect User Guide for assistance in filing your Electronic Export Information (EEI). The AESDirect User Guide is user friendly and provides step-by-step instructions for filing EEI, screen captures of the EEI, and “help” features to assist with correctly entering your export information. Please be aware that the FTR, Section 30.71, state that

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failure to comply with the FTR can result in a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.

Figure 1: Create a Shipment



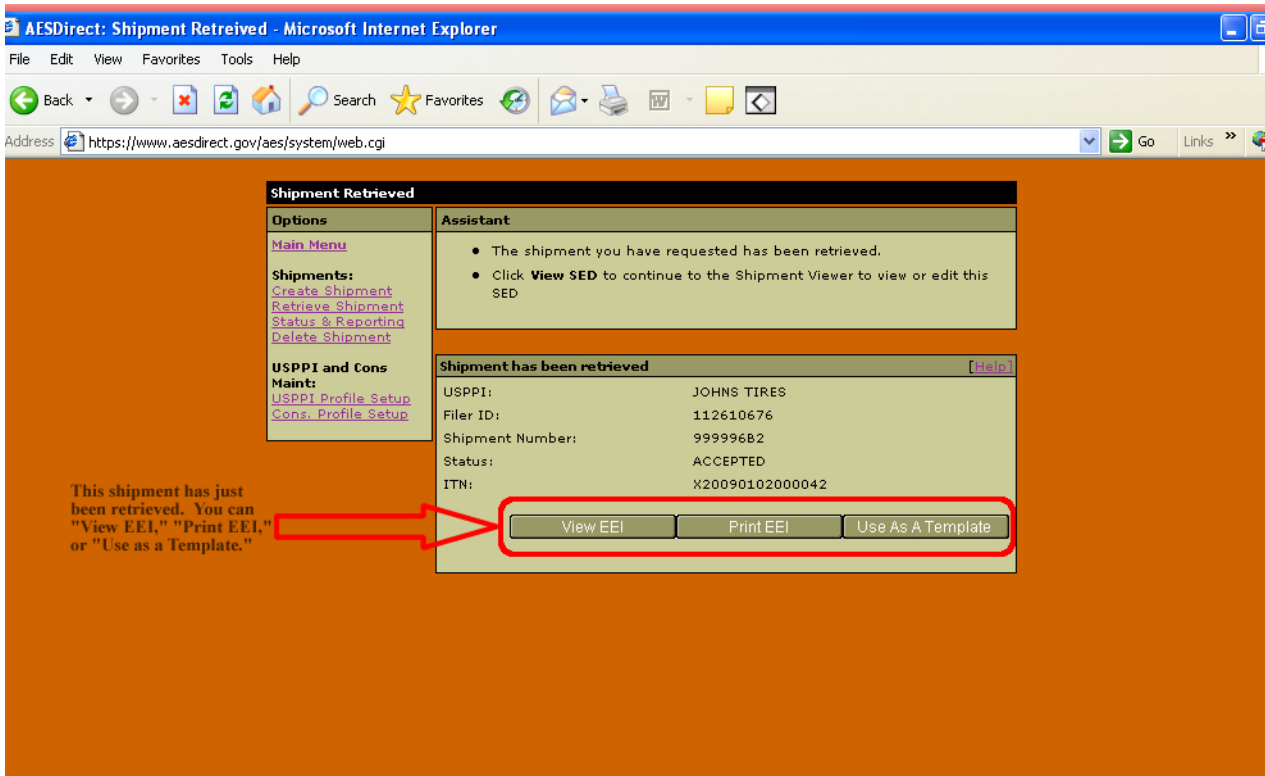
Making a correction to a shipment can be accomplished by following a few easy steps.

Retrieve originally filed shipment:

1. Log into AESDirect.
2. From the main menu under “Shipments,” click on “Retrieve Existing Shipment.”
3. Click “Retrieve Shipment” tab to retrieve by SRN/USPPI ID or “Retrieve Shipment by ITN” tab (Internal Transaction Number).
4. Enter the SRN/USPPI ID or ITN, then click “Retrieve Shipment.”

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Figure 2: Retrieve a Shipment



Verify/Correct a Shipment:

1. Retrieve shipment.
2. If corrections are needed, click "View EEI."
 - a. Highlight the section that needs correction, click "Edit Section."
 - b. Make the corrections.
 - c. Click "View EEI."
 - d. Click "Submit EEI" to send to AES for processing. The corrections will be applied to the original shipment.

Note: After making the necessary changes, make sure to re-submit the shipment under the same SRN as the original shipment. Your ITN will stay the same.

If you need additional assistance, please contact an AES Client Representative at 800-549-0595, menu option 1.

Are You Using the Correct “No License Required” (NLR) Designation?

by Gerard Horner, Bureau of Industry and Security

The Automated Export System (AES) provides for two license codes to designate exports as No License Required (NLR). These codes are C32 and C33. License Code C32 is reported for exports designated as NLR where the items have an Export Control Classification Number (ECCN) with a reason for control in addition to Anti-Terrorism (AT) or other than AT. License Code C33 is reported for exports designated as NLR for items that are designated Export Administration Regulations (EAR) 99 or have an ECCN with a reason for control of AT only. License Code C33 is also reported for export of items destined to Puerto Rico or the U.S. Virgin Islands.

Where Do I Find the Reason for Control for My Item?

Supplement No. 1 to Part 774 of the EAR is the Commerce Control List . This list includes the ECCN and descriptions for items (commodities, software, and technology) subject to the authority of the Bureau of Industry and Security (BIS). If the item has an ECCN and no license is required based on the destination or lack of any other EAR prohibition, you must review the “Reason for Control” to determine which NLR designation you may use.

In the examples below, you will notice that the item 1A001 is controlled for both National Security (NS) and AT reasons. Assuming the destination country is not controlled for NS or AT reasons (see note below), you must use License Code C32 because 1A001 has a reason for control of NS, in addition to AT. Remember, when reporting License Code C32 in the AES, the ECCN is also required. In the other example below, you must use License Code C33 for ECCN 4B994 because the reason for control is AT only.

1A001 Components made from fluorinated compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

<i>Control(s)</i>	<i>Country Chart</i>
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

4B994 Equipment for the “development” and “production” of magnetic and optical storage equipment.

License Requirements

Reason for Control: AT

<i>Control(s)</i>	<i>Country Chart</i>
AT applies to entire entry	AT Column 1

Note: Always review Supplement No. 1 to Part 738 (Commerce Country Chart) of the EAR - to verify that the ECCN is not controlled to the country of destination. If there is an “X” in the box for the country of exportation under the reason for control, a license may be required and the designation NLR may not be used. In addition, if your proposed export is to an embargoed country, to an end-user of concern, or in support of a prohibited end use, you may be required to obtain an export license.

Conditional Data Fields in the Automated Export System (AES)

Eric Gauthier, Automated Export System Branch

Since the implementation of the mandatory requirement to file the export information via the Automated Export System (AES) on October 1, 2008, a considerable number of new companies have registered and started using either AESDirect or AESPcLink. As a result of the increase in new users, the AES client representatives are receiving common questions regarding how to file in the system. One situation that creates confusion for a first-time user is identifying what information is required and/or when information is required on the Electronic Export Information (EEI). To make the filing process a little easier, each data field is highlighted with a color to indicate whether the field is mandatory, conditional, or optional.

The meaning of each data field color is defined below:

- **Red fields**—Mandatory fields. You are required to complete these fields when submitting your EEI, regardless of the circumstances.
- **Blue fields**—Conditional fields. Depending on the circumstances involved in your shipment, these fields may be mandatory.
- **Black fields**—Optional fields. You are not required to provide these data fields.

When trying to determine if you are required to complete a conditional field when completing the EEI, you can think of them as an IF-THEN situation—**IF** the following applies to my shipment, **THEN** I must provide the required information.

The most common conditional fields and when you would need to complete them are explained below. Please refer to Section 30.6 of the Foreign Trade Regulations for the entire list of fields and the requirements to file.

On the “**Shipment Information**” screen:

- “**Transportation Reference Number**” field (TRN)—**IF** the “Mode of Transportation” is “Vessel” or “Vessel Containerized,” **THEN** you must complete the TRN field. The TRN must be entered as the booking number provided by the ocean carrier. The TRN is not required for “Air,” “Rail,” or “Truck,” whether containerized or not, but may be provided using the airway bill number for air shipments, the bill of lading number for rail shipments, and the freight bill or pro bill number for truck shipments. Do not provide a TRN for any other mode of transportation.
- “**Port of Unlading**” field—**IF** the “Mode of Transportation” is “Vessel” or “Vessel Containerized” **OR** if the shipment is an air shipment between the United States and Puerto Rico, **THEN** you must report a Port of Unlading. Do not report a Port of Unlading code for any other modes of transportation or situations.
- “**Carrier SCAC/IATA**” field—**IF** the “Mode of Transportation” is “Vessel,” “Rail,” “Truck,” or “Air,” whether containerized or not, **THEN** you must provide Carrier’s Standard Carrier Alpha Code (SCAC)/International Air Transport Association (IATA) code. The SCAC will be needed for vessel, rail, or trucking carrier line. The IATA code

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must be entered for the air carrier. The system will not accept information on this field if any other mode of transportation is selected.

- **“Conveyance Name” field**—**IF** the “Mode of Transportation” is “Vessel,” “Air,” “Rail,” or “Truck,” whether containerized or not, **THEN** you must complete this field. You must provide the vessel name for ocean shipments. For any of the other three modes of transportation mentioned, you must enter the carrier name. The system will not accept information on this field if any other mode of transportation is selected.

On the **“Ultimate Consignee”** screen:

- **“State” field**—**IF** the Ultimate Consignee is located in the United States or Mexico, **THEN** you must provide the state code.
- **“Postal Code” field**—**IF** this is a shipment between the United States and Puerto Rico, **THEN** you must provide a postal code.

On the **“Commodity Line”** screen:

- **“Export Code” field**—**IF** the “Export Code” is “HH: Personal household effects and tools of trade,” **THEN** you do not complete the following fields:
 - **“Schedule B or HTS Number”**
 - **“1st Quantity” and “Units for 1st Quantity” fields (see note below)**
 - **“2nd Quantity” and “Units for 2nd Quantity” fields (see note below)**
 - **“Foreign/Domestic Indicator”**

If you have questions on when to complete the conditional fields or if you need assistance when providing the information, you may contact an AES Client Representative at 800-549-0595, menu option 1 to assist you.

Note: For more information on how to complete these specific fields, please refer to the article “What Unit of Measure Should I Use?,” published in the January 2009 AES Newsletter (Issue 34) available online at www.census.gov/foreigntrade/aes/aesnewsletter012009.pdf. You can use this list as a guide to verify that all sections are complete, ensuring that your EEI will be accurate.

Customs and Border Protection's (CBP) Role in Processing Goods Exiting the Country

by Philip Warker, U.S. Customs and Border Protection

Customs and Border Protection (CBP) plays a significant role in protecting our nation's borders from illegal exports as well as illegal imports. CBP is responsible for enforcing U.S. export laws and regulations on behalf of many agencies by inspecting and examining cargo, passengers, and export documentation; detaining questionable shipments; seizing shipments in violation of export control laws; interdicting unreported currency, Department of State and Commerce licensable commodities, stolen vehicles, and other illegal exports.

With respect to exports, in support of CBP's goal of keeping terrorists from acquiring weapons of mass destruction (WMD), weapons of mass effect (WME), or other weapons or weapon components, officers ensure that unauthorized exports are not allowed to leave the country. This includes enforcement of the U.S. Munitions List, the Dual Use List (i.e., items that can be used for both civilian and military purposes), controlled nuclear materials and technology, and economic sanctions or trade embargoes.

CBP is the last line of defense in the export control process because it has border search authority and authority to enforce export control regulations, is physically located at the borders, and has the ability to inspect, search, detain, and seize goods being exported without the proper authorizations (licenses or license exemptions).

U.S. Principal Parties in Interest (USPPIs) must first work with the appropriate federal agency (e.g., the Department of Commerce), to determine whether an export license is required for their cargo. Exporters must then file the Electronic Export Information (EEI) through the Automated Export System (AES) or AESDirect (an Internet-based application) and receive the Internal Transaction Number (ITN). For vehicles, exporters must present the title at the port of export 72 hours prior to export and make the vehicle available for inspection.

AES data is filtered through the Automated Targeting System to identify suspicious shipments. CBP officers with access to AES can conduct inquiries and, if needed, examination of targeted shipments. Officers seek to determine if the actual commodity matches the description on the export documents and if any licenses or license exemptions are required for export. To make these determinations, officers refer to cargo manifests, bills of lading, invoices, packing lists, and hazardous material certifications. They also consider other factors such as company history (or lack thereof) and the routing of the goods.

Officers work closely with the trade community to improve export compliance and to correct technical errors in AES transmissions or related export documentation, but there are still a substantial number of detentions and seizures for a myriad of reasons, including not filing the EEI if the commodity is valued over \$2,500, late filing of AES data, not obtaining a license or falsely claiming a license exemption, not using an approved freight forwarder, or indicating the incorrect mode of transportation.

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Customs and Border Protection's (CBP) Role in Processing Goods Exiting the Country—Con.

CBP's Office of Field Operations has many ongoing efforts aimed at enhancing export processing, including updating training classes, dedicating more personnel to outbound activities, working to improve communication with export control agencies, and working to establish complete electronic interoperability between all export control agencies via the International Trade Data System. The goal of the latter is to eliminate the review of paper export licenses and permits by CBP officers and to expedite the release of cargo for export by creating functionality to reconcile export documents electronically through interoperability with export control agency databases.

We look forward to working closely with the trade community to ensure that our borders are protected from illegal imports and exports.

No Doc, No Load Clarification

by Omari Wooden, Automated Export System Branch

The Foreign Trade Regulations (FTR) Section 30.4, as mandated under the Trade Act of 2002, require U.S. Principal Parties in Interest (USPPIs) or authorized U.S. Agents to report their Electronic Export Information (EEI) predeparture into the Automated Export System (AES) for non-U.S. Munitions List (USML) shipments based on the method of transportation (MOT), as follows:

- Vessel—24 hours prior to loading the cargo.
- Air—2 hours prior to the scheduled departure time.
- Truck—1 hour prior to the arrival of the truck at the U.S. border.
- Rail—2 hours prior to the arrival of the train at the U.S. border.
- Mail/Other—2 hours prior to exportation.

Filers must adhere to these timeframes by ensuring that a valid proof of filing citation, exemption statement, or postdeparture citation is presented to the carrier. Carriers must also adhere to these timeframes by ensuring that a valid proof of filing citation, exemption statement, or postdeparture citation is available for presentation to the Customs and Border Protection (CBP) Port Officer and is noted on the manifest or other transportation documentation.

Mainly in the vessel carrier environment, increased timeframes have been established, in addition to what has been mandated by the Trade Act and regulated under Title 15, Part 30, in which filers must present the required regulatory citations to the carrier. It is our understanding that the additional time set by the carriers is needed to allow the time necessary to ensure all appropriate documentation is in place prior to loading the cargo onto the vessel. Please note that it is the right of the carrier to establish business practices that are not in violation of the regulations.

Under FTR, Section 30.3, the filer is responsible for the accuracy of the export information reported in the AES, insofar as the filer can demonstrate that he or she reasonably relied on information furnished by other responsible people participating in the transaction. If exact information regarding the shipment is not known at the time of filing, estimated data may be

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provided. Based on the FTR, Section 30.9, USPPIs or authorized U.S. Agents are responsible for transmitting any changes to export information as soon as it is known. It is important that all parties establish clear lines of communication to make sure the EEI and documentation are accurate.

For more information on the filing timeframes and corrections in the AES, please refer to FTR Sections 30.4 and 30.9, respectively, available at www.census.gov/foreign-trade/regulations/regs/regulations20080602-federalregister.pdf.

Interested in Attending an AES Seminar or Workshop?

Please visit the following Web page for information about when we will be in your area:

www.census.gov/foreign-trade/aes/meetingsandpresentations/index.html

Contact Information

AESDirect Technical Support (toll-free)

Every day, 7 a.m.–7 p.m. ET

Voice: 877-715-4433

Fax: 301-562-7795

E-mail: boc-support@tradegate2000.com

Census Call Center 800-549-0595

The email addresses below are not secure. Confidential company information should not be sent to these addresses.

Automated Export System Branch, menu option 1

Monday through Friday

7:30 a.m.–7 p.m. ET (see not below)

Fax: 301-763-6638

E-mail: ASKAES@census.gov

Commodity Analysis Branch (Schedule B/HTS classification), menu option 2

Monday through Friday

8:30 a.m.–6 p.m. ET

Fax: 301-763-4962

Regulations, Outreach, and Education Branch, menu option 3

Monday through Friday

8 a.m.–6:30 p.m. ET (see not below)

Fax: 301-763-4610

E-mail: ftdregs@census.gov

Note: The Automated Export System Branch and the Regulations, Outreach, and Education Branch have new extended hours from 7:30am–7:00pm, Monday through Friday.

Foreign Trade Division (all branches)

Secure Fax: 301-763-8835

This fax number is for confidential company information (i.e., data requests). Please include a cover sheet with the name and/or branch number to whom the fax should be delivered.

U.S. Customs and Border Protection (CBP)

Trade Enforcement and Facilitation

For questions regarding CBP, ITAR, and Used Vehicles contact:

Robert Rawls, 202-344-2847, robert.rawls@dhs.gov or manifest.branch@dhs.gov.

Bureau of Industry and Security (BIS)

Washington, DC

202-482-4811

Western Regional Office, Los Angeles/Newport Beach, CA

949-660-0144

Western Regional Office, San Jose, CA

408-351-3378

Web sites

U.S. Census Bureau, Foreign Trade <www.census.gov/trade>

U.S. Customs and Border Protection <www.cbp.gov>

Bureau of Industry and Security <www.bis.doc.gov>