

2007 Census Initiatives: New AES Enforcement Programs

Two new export enforcement initiatives that the Census Bureau intends to implement in 2007 as part of its revised Foreign Trade Regulations will have significant and far-reaching consequences for the U.S. export community.

AUTOMATED EXPORT SYSTEM COMPLIANCE REVIEW PROGRAM: Exporters not meeting their obligations under the AES will be audited. These audits will specifically target companies that:

- Are not complying with their filing obligations under Option 4, which allows export data to be filed up to 10 days after a shipment has left the U.S.,
- Have a high number of late filings or unresolved fatal errors in their AES submissions, or
- Fail to achieve a 95 percent compliance rate as reflected in the AES compliance reports Census sends to filers each month.

NEW VOLUNTARY DISCLOSURE PROGRAM

- Companies will only be permitted to file three voluntary disclosures within a three-year period
- Any information disclosed to Census in such a disclosure will be shared with other relevant U.S. government agencies

INCREASED PENALTIES AND ENFORCEMENT

- For late filing, failure to file and false filing.
- Civil penalties increase from \$100/day to \$1,000/day, with maximum of \$10,000 per violation.
 - Property will also be subject to forfeiture.
- Criminal penalties of up to \$10,000 per violation and up to 5 years in jail.

ACT NOW TO RESOLVE AES NON-COMPLIANCE!

- Review current compliance status
 - Census will give USPPIs one year of past AES data upon request for free
- Audit the activities of your freight forwarders and agents
 - **This is vital!**
 - AES compliance reports and fatal error reports are issued to the AES record filers and not necessarily to the exporters who ultimately have liability
 - Review current freight forwarder SOPs and/or agent agreements to ensure that the filer is aware of new requirements and ensuring compliance with new responsibilities
- Assess the risks posed by tangible exports as well as technology transfers
- Take affirmative steps to improve internal control programs
- Update compliance manuals and training programs
- Review recordkeeping compliance

For more information on these and other proposed rules and programs or how to ensure your company's compliance contact Global Trade Advisors today!