

## **AES and Export Compliance**

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**Peter Powell Sr., CEO, C. H. Powell Co.**



## **Legal Requirements**

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### **Census Bureau**

**Foreign Trade Regulations (FTR)**

**•15 CFR, Part 30 Section 30.1 - 30.74**

### **Bureau of Industry and Security (BIS)**

**Export Administration Regulations (EAR)**

**•15 CFR, Parts 700 - 799**

## **Legal Requirements (cont'd)**

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### **State Department**

#### **International Traffic in Arms Regulations (ITAR)**

- **Title 22 CFR, Parts 120 – 130**

### **Customs and Border Protection (CBP)**

#### **Customs Regulations**

- **Title 19 CFR, Parts 1 – 199**

## **Impact On Trade Community**

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- **New compliance requirements may lead to shift in business practice**
- **Meet filing time frames**
- **Increased Penalties**
- **Required filing citations**
  - **Internal Transaction Number (ITN) Proof of Filing Citation**
  - **Exemption Citation**
  - **Postdeparture Citation**
  - **Downtime Citation**

## **When is an EEI Record Required? Section (30.2)**

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**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

## **U.S. Principal Party In Interest Section (30.3)**

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**USPPI Can Be The:**

- U.S. Seller: (Wholesaler or Distributor)
- U.S. Manufacturer
- U.S. Order Party
- Foreign Entity
- Customs Broker

## **What is a Shipment?**

### **Section (30.1)**

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- Merchandise shipped from one U.S. Principal Party in Interest (USPPI) to one consignee
- On the same flight/vessel
- To the same country
- On the same day
- Valued over \$2,500 per Schedule B number or license required

## **Two Types of Transactions**

### **Section (30.3)**

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#### **Export Transaction (Standard):**

- USPPI files the EEI record or authorizes U. S. agent to file the EEI

#### **Routed Export Transaction:**

- Foreign Principal Party in Interest (FPPI) authorizes a U.S. agent or USPPI to file the EEI

## **Export Transaction Section (30.3 (c))**

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### **USPPI Responsibilities:**

- **Prepare and file EEI and provide proof of filing citation to carrier**
- **Respond to AES fatal errors or compliance alerts**
- **Authorize a U.S. agent to file EEI via POA or written authorization**
- **Provide agent with accurate and timely export information**
- **Assume responsibility for license determination under EAR**
- **Retain documentation**

## **Export Transaction Section (30.3 (c))**

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### **U.S. Authorized Agents' Responsibilities:**

- **Obtain written authorization or POA from USPPI**
- **Accurately prepare export information via AES, based on information provided by the USPPI and other parties**
- **Respond to AES fatal errors or compliance alerts**
- **Provide AES ITN to carrier based on required filing timeframes (30.4)**
- **Provide USPPI with copy of information filed on its behalf**

## **Export Transaction Section (30.3 (c))**

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### **Carrier Responsibilities:**

- **Do not accept cargo without ITN, exemption, and/or post citation**
- **Annotate Outbound Manifest (30.7(b))**
- **Present proof of filing citation or exemption legend to CBP Port Director**

## **Routed Export Transaction Section (30.3 (e))**

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### **FPPI Responsibilities:**

- **Authorize a U.S. agent or USPPI to file the EEI record**
- **Provide the POA or written authorization to U.S. agent or USPPI**

## **Routed Export Transaction Section (30.3 (e))**

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### **USPPI Responsibilities:**

- **Must provide FPPI's agent with commodity data & licensing information**
- **May request copy of the authorized agent's POA or written authorization from the FPPI**
- **If filing, obtain authorization from FPPI to file the EEI record**
- **Retain documentation**

## **Routed Export Transaction Section (30.3(e))**

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### **U.S. Agent Responsibilities:**

- **Obtains a POA or written authorization from the FPPI**
- **Prepare and file EEI record**
- **Upon request, provide the USPPI with data elements filed on its behalf**
- **Upon request, provide the USPPI with a copy of the POA or written authorization from the FPPI**
- **Provide filing citation or exemption legend**
- **Retain documentation**

## Required Predeparture Filings Section (30.4 (b))

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- U.S. Munitions List (USML)/Commerce Control List (CCL) shipments
- Drug Enforcement Agency (DEA) Permit
- Used self-propelled vehicles
- “Sensitive” by Executive Order
- Routed Exports
- Rough Diamonds

## ITAR Filing Time Frames Section (30.4 (b)(1))

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### USML Shipments

**Air:** 8 hours prior to scheduled departure time

**Truck:** 8 hours prior to arrival at U.S. border

**Rail:** 24 hours prior to arrival at U.S. border

**Vessel:** 24 hours prior to loading



## **Filing Time Frames Section (30.4 (b)(2))**

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### **Non-USML Shipments**

<b>Vessel:</b>	<b>24 hours prior to loading</b>
<b>Truck:</b>	<b>1 hour prior to arrival at U.S. border</b>
<b>Air:</b>	<b>2 hours prior to scheduled departure time</b>
<b>Rail:</b>	<b>2 hours prior to arrival at U.S. border</b>
<b>Mail:</b>	<b>2 hours prior to export</b>

## **Shipments Exempt from Filing Sections (30.36-30.40)**

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- **Country of ultimate destination is Canada (30.36)**
- **\$2,500 or less per Schedule B number (30.37(a))**
- **Tools of Trade: hand carried, personal or company use, not for sale, not shipped as cargo, returned within 1 year (30.37(b))**
- **Intangible exports of software & technology (30.37(g))**
- **Temporary Exports (e.g., Carnets) (30.37(r))**

## Exemptions Do Not Apply

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- Commerce (BIS) licenses
- State Department licenses
- Shipments on Office of Foreign Assets Control Sanctions Program List
- License shipments from other government agencies

## Criminal Penalties Section (30.71(a))

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### USPPI, US authorized agent, or carrier:

- 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**

### **Section (30.71(b))**

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#### **USPPI, US authorized agent, or carrier:**

- Failure to File or Late Filings
- False or Misleading Information
- Other Violations

**Up to \$1,100 per each day delinquency or up to maximum of \$10,000 per violation**

**Penalties may be mitigated**

## **Voluntary Self Disclosure**

### **Section (30.74)**

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- **Systematic Problems**
- **Submit letter on company letterhead and include the following information:**
  - **Description of information unreported or reported incorrectly**
  - **Number and value of shipments affected**
  - **Steps taken to resolve problem**
  - **Point of contact**
- **Retain documentation regarding all shipments involved in disclosure**
- **File missing or correct data in AES**

## **Corrections Section (30.9)**

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- **One or two errors**
- **Filer must submit corrections, cancellations, or amendments as soon as possible**
- **Use ITN to locate AES record**
- **Failure to correct EEI is a violation**