

AES Newsletter

Issue 46

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Export Control Reform

by Gerry Horner, Acting Director, Office of Technology Evaluation, Bureau of Industry & Security

In August 2009, the President directed a broad-based interagency review of the U.S. export control system, with the goal of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on current threats, as well as adapting to the changing economic and technological landscape. This review determined that the current export control system is overly complicated, contains too many redundancies, and, in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities.

As a result, the Administration launched the Export Control Reform Initiative (ECR Initiative), which will fundamentally reform the U.S. export control system. The ECR Initiative, which is not related to the President's National Export Initiative, is designed to enhance U.S. national security and strengthen the ability of the United States to counter threats such as the proliferation of weapons of mass destruction.

The status of the work being conducted to implement the ECR Initiative is continually changing. The export industry is encouraged to visit www.export.gov/ecr for up-to-date information. In particular, industry should review the "ECR Initiative dashboard" which gives the progress of changes, and "News" that contains published regulations pertaining to the ECR Initiative.

Consolidated Proscribed Party Screening List

As part of the ECR Initiative, the Departments of Commerce, State, and the Treasury consolidated six proscribed party lists into one spreadsheet as an aide to industry in conducting electronic screens of potential parties to regulated transactions. The list can be downloaded by visiting www.export.gov/ecr and clicking on the "Consolidated Screening List" on the left sidebar of the page. Visitors to the Web site may also sign up for an e-mail notification of changes to the consolidated list. In the event that a company, entity, or person on the list appears to match a party potentially involved in an export



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transaction, additional due diligence should be conducted before proceeding. There may be a strict export prohibition such as a requirement for seeking a license application; an evaluation of the end-use or user to ensure it does not result in an activity prohibited by any U.S. export regulations; or some other restriction. The consolidated list contains entities from the following sources.

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

- Denied Persons List—Individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited.
- Unverified List—End users that BIS was unable to verify in prior transactions. The presence of a party on this list in a transaction is a “Red Flag” that should be resolved before proceeding with the transaction.
- Entity List—Parties whose presence in a transaction can trigger a license requirement supplemental to those elsewhere in the Export Administration Regulations (EAR). The list specifies the license requirements and policy that apply to each listed party.

Department of State—Bureau of International Security and Nonproliferation

- Nonproliferation Sanctions—Parties that have been sanctioned under various statutes. The linked Web page is updated as appropriate, but the Federal Register is the only official and complete listing of nonproliferation sanctions determinations.

Department of State—Directorate of Defense Trade Controls

- AECA Debarred List—Entities and individuals prohibited from participating directly or indirectly in the export of defense articles, including technical data and defense services.

Pursuant to the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR), the AECA Debarred List includes persons convicted in court of violating or conspiring to violate the AECA and subject to “statutory debarment,” or persons established to have violated the AECA in an administrative proceeding and subject to “administrative debarment.”

Department of the Treasury—Office of Foreign Assets Control (OFAC)

- Specially Designated Nationals List —Parties who may be prohibited from export transactions based on OFAC’s regulations. The EAR require a license for exports or reexports to any party in any entry on this list that contains any of the suffixes “SDGT,” “SDT,” “FTO,” “IRAQ2,” or “NPWMD.”

In June 2011, the BIS published a final rule to add a new license exception, Strategic Trade Authorization (STA), to the Export Administration Regulations that authorizes the export, reexport, and transfer (in-country) of specified items to destinations that pose relatively low risk that those items will be used for a purpose that license requirements are designed to prevent. Industry needing more information on license exception STA should review §740.20 of the EAR. The BIS also created a STA interactive tool on the export.gov Web site to help industry determine if their licensed export is eligible for STA use.

If you have questions or need more information, please contact Gerry Horner at 202-482-2078, or gerard.horner@bis.doc.gov for assistance.

When/How/Why to Suppress AES Fatal Errors

by Keith Jones, Automated Export System Branch

You just received an e-mail that indicates an Automated Exported System (AES) Fatal Error. What to do first? PANIC (just kidding)! First, determine whether the error is something you can correct (incorrect/miskeyed code, required data element not reported, etc.).

First, if your Shipment Reference Number (SRN) represents a shipment that has not yet received an Internal Transaction Number (ITN) confirmation message, then you can retrieve the shipment, make the needed change(s), and resubmit, being sure to keep the original SRN on the revised record. When you receive the "Shipment Added" message and an ITN, then any fatal errors previously associated with that SRN will be automatically deleted with no further action needed on your part. Note that your cargo cannot be exported if you do not receive an ITN.

If, however, you tried to update or replace an SRN after an ITN was issued, and receive an AES Fatal Error, you should delay the movement of the cargo (if not yet exported). Retrieve the shipment, make the needed change(s), and resubmit, being sure to keep the original SRN. When you receive the "Shipment Replaced" or "Shipment Changed" message with the original ITN repeated, this means that your fatal error(s) have been corrected and the cargo is free to move out of the country.

If you cannot correct the error (shipment not on file, shipment refiled under a different SRN or by another party to the transaction, shipment cannot be corrected due to pending CBP action, and the like), then the shipment is a candidate for a Fatal Error Suppression request.

The AES Fatal Error Team has designed a form to include with your suppression request. Send your request to ftd.aes.fatal.reports@census.gov with the information from your shipment, using the examples below as a guide. The Fatal Error Suppression Form can be downloaded from the following link:

[Download Suppression Form](#)

Background of the AES Fatal Error Report and Suppression Requests

The Automated Export System (AES) Compliance Report is sent to filers once per month. Two weeks following that, filers receive the AES Fatal Error Report. Both reports contain a list of all unresolved shipments that have been rejected due to fatal errors. In most cases, Fatal Errors must be corrected. In some cases, however, when the error cannot be resolved by the filer, you can request that the Shipment Reference Number (SRN) be added to the suppression list to remove it from your AES Compliance and AES Fatal Error reports.

Fatal Error Suppression requests are appropriate for the following situations:

- Duplicate reports—This occurs when the shipment was refiled and accepted by the AES under a different SRN, either by the original filer or another party to the transaction. In your request, include the SRN that received the fatal error(s), the replacement SRN, and the Internal Transaction Number (ITN) associated with the replacement SRN.

Fatal Error Suppression Form				
<i>Remember: If the shipment was refiled, please enter the new Shipment Reference Number (SRN).</i>				
	Original SRN	New SRN	Accepted Shipment ITN	Reason
Example 1:	Shipment1	Shipment1A	X20121004621435	The shipment was filed under a new SRN and the new SRN received an ITN.
Example 2:	Shipment2	Not needed	X20120308424666	The shipment will not be exported.
Example 3:	Shipment3	Not needed	X20120908625521	The filer is unable to correct the AES Fatal Error(s).

by Keith Jones, Automated Export System Branch

- The shipment will not be exported due to a cancelled order, mistaken entry, or other reason.
- Filer unable to correct the Automated Exported System (AES) Fatal Error(s).

The Suppression Examples below correspond to the three examples shown in the Fatal Error Suppression Form. Each is described in more detail with an explanation of the required actions and responses.

Suppression Examples

Example 1: The shipment was filed under a new Shipment Reference Number (SRN) and received an Internal Transaction Number (ITN).



In the future, please correct the original SRN and resubmit rather than creating a new SRN.

When attempting to file the Electronic Export Information (EEI), the filer received an AES Fatal Error. Rather than correcting the original shipment, the filer created a new SRN. Correcting the original SRN now would create a duplicate report, so the filer must send a suppression request to ftd.aes.fatal.reports@census.gov. Please include the information for your shipment, using the examples shown in the Fatal Error Suppression Form shown on the preceding page.

Example 2: The shipment will not be exported.

The filer received an AES Fatal Error for an SRN and therefore did not receive an ITN confirmation message. The error was not corrected because the order was cancelled and/or the shipment was not exported.

To resolve this AES Fatal Error, you can submit a suppression request at ftd.aes.fatal.reports@census.gov. Please include the information for your shipment, using the examples shown in the Fatal Error Suppression Form.

Example 3: The filer is unable to correct the AES Fatal Error(s).

The filer attempted to delete the SRN twice by accident. The only method of resolving this type of fatal error is to file a suppression request at ftd.aes.fatal.reports@census.gov. Please include the information for your shipment, using the examples shown in the Fatal Error Suppression Form.

The filer attempted to change/correct a SRN that had previously been cancelled. This action will generate fatal error code 068. The only method of resolving this type of fatal error is to file a suppression request at ftd.aes.fatal.reports@census.gov. Please include the information for your shipment, using the examples shown in the Fatal Error Suppression Form.

The filer is unable to correct or delete the SRN due to current or pending action by U.S. Customs and Border Protection (CBP). CBP action is required when attempting to edit or delete a shipment that has been seized, held, examined, or opened. [These shipments will generate fatal error codes 072 or 073](#). If you receive one of these codes, contact CBP at the port of export for assistance. A CBP officer will have to change the shipment status code from open to closed before the AES will allow you to edit the SRN or to delete the shipment. The Census Bureau will not suppress these specific errors; therefore, you must contact CBP to resolve them.

Note: Failure to correct or resolve the EEI is a violation of the Foreign Trade Regulations and may result in penalties.

Reporting Transportation Reference Numbers

by Cesar Anchiraco, Automated Export System Branch

The purpose of this article is to define the circumstances in which the Automated Export System (AES) requires the reporting of the Transportation Reference Number and how to report it properly. This data field is conditional (as indicated in blue font in AESDirect and AESPcLink) and filers may first ask this question to determine if this applies to their Electronic Export Information (EEI):

■ What is the Method of Transportation for my shipment?

If the filer answers “Vessel,” then the Transportation Reference Number field is required and must be reported when filing the EEI. The Transportation Reference Number can be in the form of a reservation number or booking number assigned by the ocean carrier to hold space on the vessel for the cargo.

If the filer answers, “Air,” then the Transportation Reference Number is optional. If you choose to report it, you must report the Master Air Waybill (MAWB). This is the only acceptable format for air cargo in the AES. If your method of transportation is anything other than vessel or air, then be sure to leave the Transportation Reference Number field blank.

If you have further questions or need assistance, please call the AES Help Desk at 800-549-0595, menu option 1, or send an e-mail to askaes@census.gov.



CONTACT INFORMATION

Foreign Trade Division Call Center
800-549-0595 (see menu options in the table below)
***SECURE FAX: 301-763-8835** (all branches)

<p style="text-align: center;">Automated Export System Branch, Option 1</p> <p style="text-align: center;">Monday–Friday 7:30 a.m.–5:30 p.m. (Eastern Time) Fax: 301-763-6638 E-mail: askaes@census.gov</p>	<p style="text-align: center;">Commodity Analysis Branch, Option 2</p> <p style="text-align: center;">Monday–Friday 8:00 a.m.–5:30 p.m. (Eastern Time) Fax: 301-763-4962 E-mail: ftd.scheduleb@census.gov</p>
<p style="text-align: center;">Regulations, Outreach, and Education Branch, Option 3</p> <p style="text-align: center;">Monday–Friday 7:30 a.m.–6:00 p.m. (Eastern Time) Fax: 301-763-4610 E-mail: ftdregs@census.gov</p>	<p style="text-align: center;">Data Dissemination Branch, Option 4</p> <p style="text-align: center;">Monday–Friday 8:30 a.m.–5:00 p.m. (Eastern Time) Fax: 301-763-4962 E-mail: ftd.data.dissemination@census.gov</p>

*The secure fax number is for confidential company information (i.e., data requests). Please include a cover sheet with the name and/or branch phone number to whom the fax should be delivered. The e-mail addresses below are not secure. Confidential company information should not be sent to these addresses.

AESDirect Technical Support (toll-free)

Every day, 7:00 a.m.–7:00 p.m. (Eastern Time)	Voice: 877-715-4433
E-mail: boc-support@tradegate2000.com	Fax: 301-562-7795

AES Partnership Agencies	Web sites
<p>U.S. Customs and Border Protection (CBP) Trade Enforcement and Facilitation For questions regarding CBP, ITAR, and Used Vehicles contact: Robert Rawls, Program Manager, 202-344-2847 E-mail: robert.rawls@dhs.gov or manifest.branch@dhs.gov</p> <p>Bureau of Industry and Security (BIS) Help Desk, Washington, DC 202-482-4933 Western Regional Office, Los Angeles/Newport Beach, CA 949-660-0144 Western Regional Office, San Jose, CA 408-351-3378</p> <p>Directorate of Defense Trade Controls U.S. State Department, Washington, DC Response Team 202-663-1282 D-Trade Questions 202-663-2838</p>	<p>U.S. Census Bureau, Foreign Trade www.census.gov/trade</p> <p>U.S. Customs and Border Protection www.cbp.gov</p> <p>Bureau of Industry and Security www.bis.doc.gov</p> <p>U.S. State Department, Directorate of Defense Trade Controls www.pmdtdc.state.gov</p> <p>U.S. Treasury Department, Office of Foreign Assets Control www.treas.gov/offices/enforcement/ofac</p>