

Getting it Right the First Time

**How to Avoid Common
Penalties**

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Today's Speakers

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*The U.S. Census Bureau measures the nation's
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Fundamentals of Exporting

Created by the Foreign Trade Division of the U.S. Census Bureau, this in-depth webinar series provides the tools necessary for a strong foundation in the fundamentals of exporting.

Getting it Right the First Time—How to Avoid Common Penalties

The seventh webinar in the 8-part series

http://www.census.gov/newsroom/releases/archives/news_conferences/webinars_exporting.html

Foreign Trade Division

The **Foreign Trade Division** is the *official* source for U.S. export and import statistics and is responsible for issuing regulations governing the reporting of all export shipments from the United States.

Today's Topics

- **Legal Requirements**
- **What is a penalty**
- **Types of penalties**
- **Common Penalties**
- **Best Practices**



Legal Requirements



Census Bureau

[Foreign Trade Regulations \(FTR\)](#)

- Title 15 Code of Federal Regulations, Part 30



Bureau of Industry and Security (BIS)

[Export Administration Regulations \(EAR\)](#)



Customs and Border Protection (CBP)

[Customs Regulations](#)



State Department

[International Traffic in Arms Regulations \(ITAR\)](#)

What is a penalty?

A penalty is where a company or entity is found to have violated the Foreign Trade Regulations

The details of penalties can be found in the FTR, Subpart H, sections 30.70-30.74.

Parties Subject to Penalties (FTR 30.70-30.74)

All parties involved in an export transaction are subject to penalties, including:

- USPPI
- Freight forwarder
- Authorized agent
- Carrier



Penalties (FTR 30.71)

■ Criminal Penalties

- U.S. exporters, agents, or carriers who knowingly fail to file, file false or misleading information, or continue to participate in illegal activities
- Penalty can be up to \$10,000 per violation and/or imprisonment for no more than five years

■ Civil Penalties

- U.S. exporters, agents, or carriers who report incorrect information or report export information late
- Penalty can be up to \$10,000 per violation or \$1,100 per each day of delinquency

Mitigating Factors

Including, but not limited to:

- First-time USPPI or authorized agent, FPPI, carrier, etc.
- Voluntary self-disclosure of the violation
- Clear documentary evidence of corrective measures undertaken to prevent future violation
- Cooperation with CBP, Census or BIS
- Demonstration by party of having a systematic export compliance effort.

Aggravating Factors

Including, but not limited to:

- Several violations in the same export transaction
- Circumstances suggest the intentional nature of the violation
- High number of violations in preceding 3-year period
- Evidence of criminal conviction for related violation, i.e. BIS violation
- The party exports as a regular part of its business, but lacks a systematic export compliance effort.

Top 3 Common Penalties

- Incorrect port of export
 - \$10,000 per violation
- Late filed shipments
 - \$1,100 per day of delinquency
- Failure to file
 - \$10,000 per violation



Incorrect Port of Export

Best practices

- **Air or Vessel**
 - **Shall be reported as the seaport or airport where the goods are loaded on the exporting carrier that is taking the goods out of the US**
- **Rail or Truck**
 - **Shall be reported where exports cross the US border into the foreign country**
- **The port of export is NOT necessarily your location**
- **Communicate with your agent and/or carrier for any changes**

Late filed shipments

Best Practices

- **Shipments must be reported in the AES, based on the following timeframes (for non-US Munitions items):**
 - Vessel: 24 hours prior to loading the goods on the carrier
 - Truck: 1 hour prior to goods arriving at the port of export
 - Air: 2 hours prior to the scheduled departure time
 - Rail: 2 hours prior to the train reaching the border
- **Make sure you report your export information based on the time frames above**
- **Hold your export to make sure the shipment if it has not been accepted**

Failure to File Best Practices

- **Shipments that must be reported in the AES for the movement of physical goods based on the following:**
 - Shipments valued over \$2,500 per Sch B/HTS number
 - Shipments licensed by government agencies
 - State Department controlled items
 - Shipments to countries on the Office of Foreign Assets Control Sanctions Program List
 - Rough diamonds
- **Make sure you know the reporting requirements for your shipment**

Voluntary Self Disclosure

(FTR 30.74)

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
- Letters should be submitted to:



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U.S. Census Bureau

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File data in AES as soon as possible and retain documentation regarding all shipments involved in disclosure

Implement Best Practices

- **Document!!! Document!!! Document!!!**
- **Correct information as soon as possible**
- **Maintain compliance**
 - **Education & cross training**
 - **Automation & Procedures**
- **Attend Seminars & Workshops**



Implement Best Practices

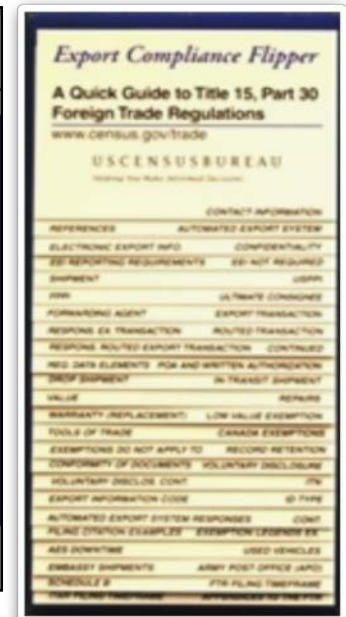
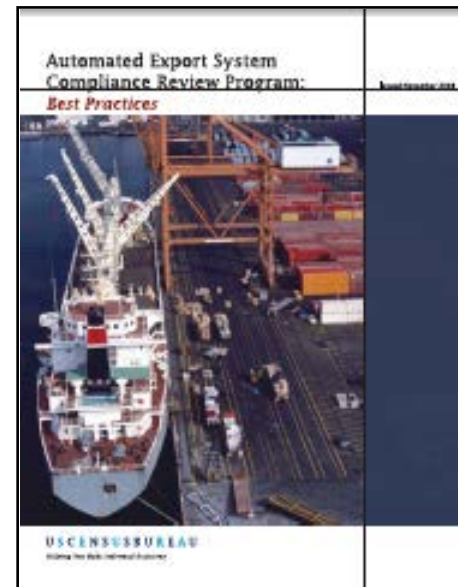
- Implement mentoring program
- Know your US authorized or forwarding agent
- Perform routine audit

Develop Training Manual

- Export Related Regulation
- Classifying Commodities
- Include FAQs, Websites, and Contacts
- Create Export Checklist
- How to File Export Information Using AES
 - Resolve Fatal Error
 - Review Warning, Compliance and Verify messages

Foreign Trade Division Outreach

- DOC Export Compliance Program
- AES Compliance Review Program
- Company Training
- Spanish Seminars



Additional Training Tools

- Export training videos

<http://www.census.gov/foreign-trade/aes/exporttraining/videos/index.html>

- Global Reach Blog

<http://globalreach.blogs.census.gov>

Foreign Trade

Main About Foreign Trade Data AES Regulations Reference Defin

Important Links

- Global Reach Blog
- Newsletters
- AESDirect
- DropBox
- Guide to Foreign Trade
- Foreign Trade Products
- USA Trade Online

Related Sites

- Business and Industry
- Briefing Room

VIDEOS

- [Export Compliance and Regulations](#)
- [Reporting Electronic Export Information \(EEI\)](#)
- [Using Trade Data for Export Planning and Strategy](#)
- [Trade Agreements](#)
- [Mandatory AES](#)

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GLOBAL REACH
The official blog of the U.S. Census Bureau's Foreign Trade Division

SEARCH

U.S. Exports of Goods Continue to Grow
Posted on March 12, 2012

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- Other Countries Have Exporter Data Too?? (551)
- USPP: Trade Term of the Month (249)
- U.S. Exports of Goods Continue to Grow (237)
- Clarification Of Routed Export Transactions (199)

One of the primary tools of the [National Export Initiative \(NEI\)](#) is the U.S. merchandise trade statistics captured by the [Foreign Trade Division](#) of the U.S. Census Bureau. Examining the trade statistics provides a business with the information needed to make efficient and effective decisions for their export strategy. The statistics may also be used to evaluate the current and historical trends of U.S. exports and imports.

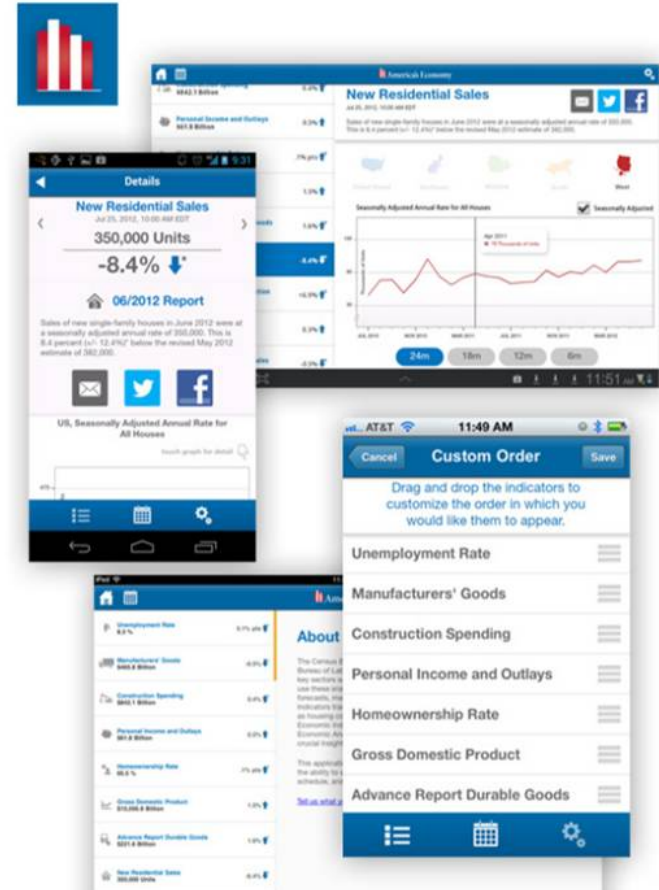
The table below displays the top five U.S. export commodities (NAICS-based) with the highest growth rate from 2009 – 2011, based on total dollar value in millions. By studying the data, we can see that over that two-year period, U.S. exports of goods have increased **40.2%**. Iron ores registered the largest individual increase at 274.0%. Cattle (206.0%), coal (164.7%), swine (152.0%), and cotton (151.2%) completed the top five.

Upcoming Seminars and Workshops

June 5-6, 2012
AES Compliance, Glen Ellyn, Illinois

America's Economy Mobile App

- www.census.gov/mobile
- 16 Key Economic Indicators, including International Trade
- Available for iPhone, iPad and Android devices



Questions?



For More Information

- **Media Inquiries:**
 - Public Information Office: 301-763-3030

- **FTD Call Center: 800-549-0595**
 - Option 1 – AES Assistance
 - Option 2 – Commodity Classification Assistance
 - **Option 3 – Regulations Assistance**
 - Option 4 – Data Dissemination Branch

- **Fax: 301-763-8835**

- **E-mail: ftdregs@census.gov**

Upcoming Webinar

For more information or to sign up for our next webinar go to:

http://www.census.gov/newsroom/releases/archives/news_conferences/webinars_exporting.html

- **What is a Foreign Trade Zone and How Can It Help You?:** *October 17, 2012*