

Top Trade Compliance Initiatives for 2019

This year brings many uncertainties about what your top compliance initiatives due to the constant changes in regulatory policy. As of this publishing, the government is still shutdown. However, we hope the following list will help you get through some of the uncertainty and keep you on track this year.

The following are recent developments to stay on top of:

Section 301 Tariffs:

- **List 1 Tariff Exclusions:**

Exclusions were announced on 12/28/18. In case you missed it, you can find more information [here](#). These exclusions are effective (retroactively) as of July 6th. Per the CBP website, “at the conclusion of the government funding hiatus, CBP will issue instructions on entry guidance and implementation. Any updates to the Automated Customs Environment (ACE) will be implemented 10 business days after the shutdown has concluded.” Once CBP issues guidance and implements ACE enhancements, a Post Summary Correction (PSC) or a Protest may be submitted for a refund.

All questions related to Section 301 entry filing requirements during the shutdown should be emailed to traderemedy@cbp.dhs.gov.

- **List 3 Tariff Increase:** Effective Sept 24th, additional 10% tariff was placed on \$200B worth of goods. Dec 1st started a 90-day period for negotiations to address U.S. concerns about Chinese forced technology transfer, intellectual property protection, nontariff barriers, agriculture, services and cyber practices. If no deal is reached, the 10 percent tariff will be increased to 25 percent.

Check out [BPE Global's webinar here](#) in association with NCBFAA Educational Institute on how to develop your own 301 Tariff Playbook. Bear in mind we did not have the List 1 tariff exclusions at the time of the recording.

BREXIT: The UK is due to leave the European Union on March 29, 2019 unless the UK somehow changes its own laws. As of this publication date, it's unclear whether any trade deal will be settled between the EU and the UK. The worst case scenario is that BREXIT will occur with no trade agreement on March 29th. So, stay tuned....

USMCA Trade Agreement: On December 1, 2018, U.S., Mexican, and Canadian leaders signed the United States-Mexico-Canada Agreement at this year's G-20 meeting after NAFTA has been renegotiated on September 30, 2018. It still needs to be ratified by each country's legislature which will be a lengthy process so it wouldn't go into effect before 2020. However, your company will want to stay abreast of the ratification if it's involved with the automotive industry, dairy industry, or pharmaceuticals as these industries will be impacted the most.

Sanction Changes: We saw increased sanctions last year especially regarding Russia, Venezuela, Cuba, and Sudan. But be prepared for changing sanctions on Russia, Iran, Syria and North Korea since these are making the news lately.

Less exciting but important! The following are not as exciting but mandatory if they affect your and/or your company:

Encryption Reporting: Reports are due by February 1st for the annual self classification and semi-annual ENC encryption reports. Exporters who self-classify encryption products under 740.17(b)(1) and 740.17(e)(3) (mass market) will continue to be required to submit a self-classification report on an annual basis. Exporters do not need to report exports of 740.17(b)(1) items if they have received a CCATS for these items. Note that if no information has changed since the previous report, an e-mail must be sent stating that nothing has changed or a you can resend a copy of the previously submitted report. More information can be found [here](#).

Semi-annual reporting is required for exports to all destinations other than Canada, and for reexports from Canada for items described under paragraphs 740.17(b)(2) and 740.17(b)(3)(iii). The semi-annual ENC license exception report is





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also due on February 1st for activity during July 1st through December 31st of 2018. Details are available [here](#) on the Bureau of Industry and Security website.

2019 HTS Classification Changes: Because of the government shutdown, we do not have a list for the updated HTS. However, keep our eyes peeled for an announcement in the Federal Register. Also, note this might affect the HTS reported in lieu of a Schedule B number for your export declarations.

Export License Renewal: If you utilize export licenses, you'll want to create a schedule for renewal. This is especially important for licenses from OFAC that are not driven by quantity or dollar amount. You'll want to start working at least 60 days in advance of the expiration. Hopefully you have a pulse on your Company's business and development strategies and are aware of upcoming licensing needs. If not, it's a great time to meet with the Sales and Business Development Teams to make them aware of licensing issues such as your current licensable products and new sanctions, such as against the government (and all government agencies) of Venezuela.

Auditing Schedule: Your compliance audit schedule should be established now so that you can ensure your company's divisions or business units can plan for appropriately and won't be adversely impacted. Coordinate your internal audits with your Corporate auditing team to ensure your audits don't overlap. Also include in your schedule an audit of your service providers such as your customs brokers and the freight forwarders who are filing AES declarations on your behalf. A review of their performance and compliance with your standard operating procedures should be conducted annually.

Training Schedule: On the same vein, you should be scheduling your trade compliance training sessions for the company. Make sure you have budget for this if you are looking to external resources to assist. The entire company should be trained annually on general trade compliance with an emphasis on high risk areas for you company. Certain departments will require more in depth training such as Shipping and Order Management. Whether these are in-person or online trainings, the earlier you plan and coordinate with other company initiatives, the more successful you will be.

Recordkeeping: The next item on the checklist has to do with recordkeeping. Are there records that can move to your archives? Are there records that exceed all company recordkeeping guidelines that can be destroyed? Remember that some records need to be kept more than five years. Records such as supporting documentation for certain Drawback claims might need to be retained past the five years, even up to 11 years.

Contract Renewals: Lastly, you'll want to review Powers of Attorneys and other third party contracts for renewals. Ensure that if your company is renewing contracts with customers, vendors and suppliers that they are including the appropriate level of trade compliance verbiage. Contract manufacturer contracts should also have specific language regarding deemed exports and controlled technology transfers.

Let BPE Global know if we can help you with any of these 2019 initiatives. BPE Global is a global trade consulting and training firm. Julie Gibbs is a Director of BPE Global. You can reach Julie by email at julie@bpeglobal.com or by phone at 1-415-595-8543.