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Top Compliance Initiatives for 2016

There are certain compliance initiatives that you should consider at the beginning of each year to ensure a successful compliance program. This year brings new initiatives, new government automation, and the usual government reporting. We hope the following list will help keep you on top of your workload and not behind it!

Trans Pacific Partnership Agreement (TPP): During the first year the TPP goes into effect, 91% of the HTS codes will enter duty free based on the 2010 tariff codes. So, you'll need to analyze whether your products qualify under the TPP according to the 2010 classifications. If they qualify, you'll also need to determine whether the TPP is more beneficial than other Free Trade Agreements (FTAs). The full text of the TPP is available on the USTR.gov website.



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Director

Export Control Reform (ECR): Six USML categories have yet to be addressed by ECR. That means that fifteen have been transitioned with final rules. Eleven of these have final transition end dates in 2016. So, you'll want to ensure any of your products that fall under these categories are fully reviewed and properly classified under the USML or the EAR. The full implementation date schedule can be found at: www.pmdtdc.state.gov/ECR/

EU Dual Use List Update: If your company exports from the EU, you'll want to review the changes to the EU Dual Use List. The changes were published in October, 2015 and became effective on December 25, 2015. The following link provides the actual changes: http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153893.pdf

Encryption Reporting: The first task on the list involves encryption reporting. The annual self-classification report is due February 1st for activity during January through December of 2015. Additionally, if your encryption registration information has changed over the past year, you will need to submit a new encryption registration form so you can be issued a new registration number. The semi-annual ENC license exception report is also due on February 1st for activity during July 1st through December 31st of 2015. Details are available on the Bureau of Industry and Security website.

2016 HTS Changes: The second item on the list is to review the changes in the 2016 harmonized tariff schedule. The USITC has posted the changes their website. Also note this might affect the HTS reported in lieu of a Schedule B number for your export declarations. Census has posted an Add/Delete list of Schedule B numbers on their website so be sure to check this list especially if your HTS numbers were affected in the new year. You don't have much time on this one; AES will only accept 2014 Schedule B codes through the end of January.

Certificates of Origin: You've probably already started requesting 2016 Free Trade Agreement (FTA) certificates or statements for programs such as NAFTA and KORUS from your suppliers. Even if the certificates or statements were issued on a blanket level, you should not use them if they are expired. If you are company that issues FTA certificates and/or statements, you will want to check with your manufacturing and procurement departments that sourcing has not or will not be changed before you issue any new 2016 blanket certificates.

Not only is this the time to request renewed FTA certificates and statements from your suppliers but it's also a perfect time to run a cost benefit analysis using ACE reports on past FTA activity to determine whether these programs are still profitable. You'll also want to analyze your ACE reports to determine whether there are any newly imported products that might be eligible for a FTA or other duty savings programs that would result in measurable duty savings.

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 Ukraine.

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



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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. The entire company should be trained annually on general trade compliance with an emphasis on high risk areas for your 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.

You'll also want to consider conferences and seminars for your professional development. Make sure there is a budget in place and that you organize your initiatives around these dates so you can actually attend the training sessions and not be holed up in your hotel room on conference calls and on email!

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.

These are all basic initiatives that should be on your New Year's checklist. It seems like a lot but if you can get a jump on these areas, the year will go a lot more smoothly!