

---

# IT'S ALL IN THE DETAILS: AES FILING AND STATE DEPARTMENT LICENSES

BY MICHAEL FRAIL  
SENIOR ADVISOR  
CERTIFIED U.S. EXPORT COMPLIANCE OFFICER

AES (Automated Export System) filings are critical in that they not only convey to the government what has been exported from the country but who exported the goods, where they were exported, the value of those goods, and to who received the goods overseas. All of these details are critical pieces of information that by law, must be filed accurately.

AES filings are even more critical for ITAR goods. In addition to the previously mentioned criteria, a filing for ITAR goods must include:

- license type
- license number or exemption being used
- ITAR registration number
- Significant Military Equipment (SME) indicator
- U.S. Munitions List (USML) category code

For exporters who rely on a freight forwarder to file on their behalf, it is vital to confirm that the forwarder understands where to find the information required for the filing. Therefore, the exporter must supply the forwarder with a Shipper's Letter of Instruction and a copy (or the original, if necessary) of the ITAR license. In the event that some of these items are incomplete or not provided, the exporter should instruct the forwarder to not proceed with the shipment until all items are provided.

As someone who deals with these filings on a day-to-day basis, I know of several instances in which AES filings were processed incorrectly (missing license information, for example) and worse yet, cases where it was not filed at all. Yes, it happens. Exporters need to be aware of these possibilities and should have procedures in place for double-checking filings made on their behalf. They need to be certain to receive a copy of each filing to verify accuracy and successful

submission by the forwarder. By law, the forwarder must provide the exporter with this information if requested.

As the U.S. Principle Party in Interest (USPPI), the exporter is also responsible for verifying that the information filed is correct. After all, the exporter will be the first company that the government will contact to ask about an errant filing. Eventually they will get around to asking the forwarder why it was filed incorrectly and possibly levy a fine to them. Regardless of the forwarder possibly being at fault, the exporter will be responsible for paying a penalty.

Exporters should also be mindful of the decrementation of the ITAR license. This means keeping track of the quantity and value of licensable goods as they are shipped. Each time a licensable good is shipped, it depletes or decrements the quantity and dollar value on the ITAR license. Once the quantity listed on the license is reached (the value is flexible to +/-10%), the license is exhausted. Any remaining items would require a new ITAR license before they could be legally exported from the U.S.

ITAR licenses and AES filings should be dealt with the utmost care. Exporters need to work with their forwarder to ensure that both parties understand what information is required, where that information can be found, and what should be done in the event of incomplete or missing information. It is also important for the exporter to obtain copies of their filings and to double-check the forwarder's work. In today's export world with the increasing fines, penalties, and government oversight, one can never be too careful.