

PUBLICATION

Freight Forwarders Are Liable for Violations of Export Law by Customers

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An administrative law judge recently ruled that freight forwarders have a responsibility to make sure that the goods they are shipping meet export control regulations. In this case, the freight forwarder picked up the goods in the U.S. and shipped them to Canada. The goods were supposed to then be forwarded to Cuba, but Canadian customs seized the goods. The judge noted that "[the freight forwarder] had an obligation, at the very least, to inquire whether all applicable export licenses had been secured before entering into the transportation." Upon learning that no license had been secured for the export from the United States to Cuba via Canada, the judge held that the forwarder should have acted accordingly. Its failure to do so exposed it to liability in this case.

Freight carriers should consider updating their compliance manuals or undergoing training in light of this ruling.

Mandatory Electronic Filing Instituted for all Exporters – Compliance by October 1, 2008

Beginning October 1, 2008, Census, Customs and Border Patrol officials will no longer accept paper Shippers Export Declarations (SEDs). From that date forward, SEDs must be filed electronically with the Automated Export System (AES). The compliance is mandatory for all ocean, air, rail and trucking carriers, who are also prohibited from accepting paper SEDs.

Compliance with the new rule will be enforced by the Department of Commerce's Bureau of Industry and Security and the Department of Homeland Security. Violations of this new provision will include fines of \$1,100 per day up to \$10,000 for failing to file; \$10,000 for false or misleading filing, and possible civil forfeiture of the goods. Voluntary self-disclosure of violations is encouraged and seen as a mitigating factor.