



# Professional Association of Exporters and Importers

*“Leaders and Partners in Worldwide Regulatory Compliance”*

**June 2009**

**Volume 23, Number 2**

## **USING DOWN TIME WISELY:**

### **Strengthening the Customs Function**

**By Steven W. Baker, PAEI Member**

Logistics executives at recent industry conferences have encouraged attendees to use the “down time” resulting from the economic downturn to strengthen partnerships with transportation suppliers, in order to ease problems that could occur when orders increase and conditions eventually improve. For international traders, an important part of the logistics process is the interface with Customs authorities, both for import and export operations.

Many technology, industrial product and start-up companies commonly have small staffs devoted to Customs functions, when compared to similar sized companies involved in products such as automobiles, textiles, and consumer products. Often highly compliant with Customs requirements on a day-to-day operational basis, these small staffs find it difficult to meet the expanding expectations by Customs and Border Protection for formal compliance policies, written procedure manuals and an ongoing review process. To the extent that demands on the Customs compliance staff are reduced during the current economic slowdown, additional time should be available to undertake the development and documentation of expected compliance activities, with the added benefit of having more formalized procedures established when demand eventually returns.

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### P.A.E.I. NEWSLETTER

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*(Continued from page 1)*

We recommend that importers conduct a review of their Customs compliance operations, including review of existing policies, procedures, and internal controls; reconciliation of data contained in the company's books and records with declarations made to US Customs; and a transaction review for compliance with basic requirements including valuation, classification, and country of origin marking. If outside assistance is secured for a review, the use of an outside law firm can provide attorney-client and attorney work product privileges, in the event any significant compliance issues are found during the review. The successful completion of an outside review (including implementing any improvement recommendations) will also be viewed as a mitigating factor by US Customs in any future enforcement actions.

The most common problem found in initial reviews of Customs compliance is the lack of both comprehensive written policies and procedures, and an established internal control process. Drafting, reviewing, and establishing the necessary materials is commonly a recommendation following a compliance review. If a company knows in advance that this will be a problem area, it may choose to develop the materials prior to the review, so that they can be evaluated as well. Both procedures would ensure that they exist prior to any audit or other type of review by US Customs.

Other problems that may be discovered during a compliance review include discrepancies between corporate records and Customs declarations, issues with documentary support for additions to or deductions from transaction values, and classification concerns, which Customs advises remain the primary area of compliance violations found in its reviews. Improvements to a company's Customs process to correct these matters can lead to both a more efficient as well as a more compliant supply chain.

Although corporate budgets are restrained while

business is down, utilizing existing resources while business conditions permit to strengthen future operations will pay off in the long run. Customs compliance and enforcement efforts will continue regardless of the business cycle. Current efforts to ensure future preparedness are an investment in the future of the business.

*Additional information regarding Customs Compliance Reviews and the potential applicability of attorney-client and/or work product privileges is available on our website, [www.swbakerlaw.com](http://www.swbakerlaw.com), or by contacting the Law Offices of Steven W. Baker. We will be pleased to discuss proposals for compliance reviews and documentary procedures improvement, whether together or independently.*

*Steven W. Baker is a former Chair of the Customs Law Committee of the American Bar Association, and has been practicing Customs and International Trade Law in the Bay Area for more than thirty years*

## **EU Ruling Will Allow U.S. Firms to Use Non-Metric Units on Packaging**

The International Trade Administration has announced the Commerce Department's successful culmination of its efforts to ensure extension of both non-metric and metric labeling provisions on product packaging for U.S. businesses exporting to the European Union. The ruling will allow U.S. firms to use non-metric units on packaging and extends the current dual-labeling provisions indefinitely. The rule was published on May 7, 2009 in the Official Journal of the European Union and will be fully in force in the 27 member states by January 1, 2010. (*Notice, dated 05/15/09, available at [http://www.trade.gov/press/press\\_releases/2009/EU\\_Labeling\\_051509.asp](http://www.trade.gov/press/press_releases/2009/EU_Labeling_051509.asp)*)

## “Complying with US Export Controls”

May 19—20, 2009



This photo is from the "Complying with US Export Controls" seminar, which was held May 19-20, at the Hilton Hotel in Santa Clara, California. This two-day program is led by BIS's professional counseling staff and provides an in-depth examination of the Export Administration Regulations (EAR). The next seminar will be held on Wednesday, September 23 – Thursday, September 24, 2009, details are on page 13 in this newsletter.

## Training ROI—Cut Back, In-House or Outsource?

By Caulyne Barron, Vice President of Online Programs, Dunlap-Stone University

*Reprinted with permission from the newsletter "Global Watch, The Newsletter of International Trade", March/April 2009*

As you've read elsewhere in this issue of Global-Watch, economic downturns often find companies tightening their belts. Sadly, the first cuts often come from training endeavors.

“It takes a special executive to listen to an investment proposal that enhances the value of the firm’s intangible assets (people, knowledge, customer and supplier value chains, etc.),” explains Rick Hum-

press, author of “Is E-Learning Worth It?” His book examines the net-profit value and benefits of e-learning projects.

The first answer too many organizations devise is just to pause all training efforts and quietly lay off training staff. Examining the strategic goals of an organization, too few include improving knowledge assets. Most companies assume that employees can pick up skills on the job without a clear needs analysis, training tailored to meaningful learning objectives and performance assessment. Why is this acceptable in the business and compliance worlds, when it wouldn't be in the medical profession? I certainly hope my doctor isn't just ‘winging’ something she saw a colleague do because no one bothered to train her.

Formal in-house training for complex regulatory issues is hard even for the largest corporations during the best of times. Knowledgeable personnel and subject matter experts are often too busy doing their own compliance critical tasks to meet with trainers and content deliverers to make sure that training is up-to-date and reflects the needs of the organization or industry. In-house training is also extremely expensive to develop, staff, and execute in a way that is meaningful to the organization and that does not interrupt productivity. Timing of training is also an issue. Employees who need the training, need to wait until it is scheduled, which may be months away. While you and your organization wait, what opportunities are lost and what violations may occur? What mistakes due to ignorance can a company allow due to scheduling issues? Short of myopic customization, how does your organization benefit from in-house training? What are the personnel, technologies and development time really costing

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you? What is an employee's time in-training costing you while they are away from their desk? Does this create a backlog or bottleneck?

Outsourcing your compliance training may seem like a large expenditure until you crunch those real ROI numbers. Let's look at the fixed costs and concerns of sending a department of five export compliance professionals through the four course Certified U.S. Export Compliance Officer program. With start dates every month, your employees can enroll when their schedules permit, when they need training. Online courses also offer flexible hours of *By Brice McCartney* participation, so your employees are not taken away from their important regulatory tasks and activities at critical moments. This keeps your company's operations flowing. Within a proven learning program with tangible learning objectives and clear-cut assessment measures that verify and document transfer of knowledge, could you re-create this program for your compliance teams readily in house? Probably not, say experts from across industry. With development, travel and a trainer, internal training on complex regulatory issues just doesn't make sense. When companies are looking at every line-item cost, spending more than you have to, for an inferior or partial training solution just doesn't make sense.

But, what if your corporate hierarchy won't even engage in the make-or-buy debate? They chose to remove or cancel the budget for "just the quarter" or "this year" and go without? Non-compliance faces serious consequences and the consequences are increasing. How do you know your employees are following the regulations if they aren't engaging in ongoing up-to-date training? "Legal and ethical training deters inappropriate individual action. Where ignorance is no excuse, knowing the law is crucial,"

Humphress points out. "A well-trained workforce will commit fewer ethical breaches and their attendant fines, forfeitures and bad publicity." If there is a mistake, and if there is an investigation into your compliance efforts, shouldn't your company be able to show due-diligence? Humphress knows that 'we couldn't rationalize training in the budget' isn't an excuse. In fact, he singles out defense contractors specifically as those who benefit "substantially" from online regulatory and ethical compliance training. How do we quantify the benefit of employees doing their job better? In sales, we see higher revenue. In compliance? Fine avoidance must be a part of the equation.

Humphress offers the following formula:  
 Benefit = (risk probability) \* (negative outcome) \* (training remediation probability)  
 $\$225,000 = .05 * \$5,000,000 * .90$

For example, if there is a 5% chance of a violation, with a possible \$5 million fine, and if training has a 90% rate of preventing this fine, the benefit of training is \$225,000 to the company per employee capable of making a mistake that triggers a violation. Run your own numbers and see where you end up.

That \$4,065 per-person CUSECO program may be looking like a bargain in comparison to its ROI. That is why the program has become the industry standard—companies worldwide recognize the value of that standard in helping them maintain their compliance readiness.

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## The JoC Tens: In The Know



### **10 Reasons Trade Compliance Programs Are Unnecessary**

Rick Miller  
Tyler Search Consultants  
[www.tylersearch.com](http://www.tylersearch.com)

Companies of all sizes in all industries struggle with trade compliance programs and the trade compliance role. There are many reasons why a compliance program is controversial. Here are the top 10 reasons why a trade compliance program is truly an unnecessary waste of resources:

- 1. Trade compliance is a cost center with no financial benefit to the company.** Except for avoiding audits, penalties and border delays. Except for avoiding duty under special programs such as the North American Free Trade Agreement, the Central America Free Trade Agreement, and the Generalized System of Preferences. Except for tariff engineering, broker management, supplier management.
- 2. Classification is easy.** Anyone can do it — just pick the lowest duty rate and let Customs tell us if we're wrong. Until Customs catches you and sends you a bill for the duty (plus interest) for all entries made over the last five years. And don't forget the penalty that's sure to follow.
- 3. Shipments to and from Canada and Mexico are not really imports/exports.** Tell that to U.S. Customs. Canada and Mexico may be our biggest trading partners, but they have their own customs services to deal with. And, oh yeah, those folks at Commerce may require an export license.
- 4. Any product purchased in the U.S. is U.S.-origin.** The trade deficit must come from somewhere... make sure you ask before you assume. Get it in writing and then ask again.
- 5. Any U.S.-origin product is NAFTA-eligible.** Unless you are audited, of course. The NAFTA rules of origin are complex and vary tremendously depending on the item. The value of U.S. components may or may not have anything to do with eligibility — even with 99 percent U.S. components. When importing under

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NAFTA, every compliance professional needs to verify the supplier's certificate of origin. Ask and ask again.

**6. We have been doing business for years without worrying about Customs.** Ever notice that all the big penalty cases in the news are for companies that have been around for a while?

**7. Our customs brokers and freight forwarders are responsible for compliance.** Importers of record for imports and U.S. principal parties of interest for exports are on the hook not the broker or forwarder — period! Ever look at the liability limitations on your broker and/or forwarder agreements?

**8. We need to make exceptions for big customers or we'll lose the business.** So if I walk past the bank every day on my way to work and only rob it once, the judge will let me off the hook because I was good most of the time? Where is my duffle bag?

**9. C-TPAT is not mandatory, so we aren't spending any money or dedicating any resources to it.** Sure it is not mandatory, but don't come crying to trade compliance when the borders tighten up and your non-C-TPAT shipments are delayed while all C-TPAT importers are given a priority.

**10. Compliance slows deliveries.** Noncompliant importers will face many more inspections and delays, especially after Customs finds the first problem. Due to limited resources, Customs targets the bad guys. Even compliant importers face delays, but if Customs already knows your company has a trade compliance program, they are more likely to work with you. While failure to maintain a viable trade compliance program may sound funny, border delays, inspections, audits and penalties are not. Trade compliance and supply chain security is more than a fact of business life today. Our world has changed. It's here to stay. Work closely with your trade compliance team. Top down support is the critical component for a successful trade compliance program.

Rick Miller is a licensed customs broker and director of trade compliance recruitment at executive recruiter Tyler Search Consultants. He can be contacted at [rmiller@tylertext.com](mailto:rmiller@tylertext.com).

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## TRADE COMPLIANCE 101 BACK TO BASICS/SINGAPORE

By Loree Stevens, PAEI Director

The *Trade Compliance 101 - Back To Basics Conference in Singapore*, presented by Mondial Trade Compliance Services and Solutions, located at the Raffles City Convention Centre April 27 and 28, 2009 was attended by seventy-five (75) Trade Compliance professionals globally. This two day highly interactive conference with eleven (11) highly accomplished speakers; educated the novices and updated and expanded the knowledge of the experienced trade compliance professionals within export and import.

Each presentation included an overview of Export and/or Import Compliance programs within Singapore, China and/or the United States (U.S. Customs, DDTC and Bureau of Industry and Security) with step by step advice on how to build and operate a trade compliance program.

Those speakers on hand for the two day conference were:

- o James Bartlett III, Senior Counsel, Northrup Grumman
- o Alison Harris, International Trade Compliance Manager, Avnet
- o William Humber, V.P. Greater China, Mondial Trade Compliance
- o Jeffrey Levin, V.P. and CLO, Mondial Trade Compliance
- o Dr. Dmitriy Nikonov, Sr. Research Associate, Center for Int'l Trade and Security
- o John Manzella, President, Manzella Trade Communications
- o Judith Norton, Research Associate at the Center for Int'l Trade and Security and a doctoral

candidate at the University of Georgia.

- o Marcia Davis, Global Trade Manager, JDSU Corporation and Board of Director for PAEI and WIT-NC
- o Loree Stevens, Trade Compliance Manager, Finisar Corporation and Board of Director for PAEI.
- o Ron Lackey, President, Customs Info
- o T. James Min II, Esq., V.P. Int'l Trade Affairs and Compliance, DHL Express (USA) Inc.

The audience was quite pleased with the knowledge that they were able to take with them and asked for these conferences to continue to further educate the trade community.







**Professional Association of Exporters and Importers**  
“Leaders and Partners in Worldwide Regulatory Compliance”

Trade Meeting  
**How to Effectively Manage Deemed Exports  
& Safeguard Controlled Technology**

**Topics to be covered:**

- Basics of EAR & ITAR Deemed Export and Re-Export
- Deemed Export Evaluation Elements
- Managing Effective IT & Physical Controls
- Effective Control of Employees and Visitor Access
- Technology Control Plan Review

**Guest Speakers:**

**Trade Presenter:** Mr. Jeff Rittener, Intel Corporation  
**Attorney Guest Speaker:** Mr. Dan C. Minutillo, DCM, A Professional Corporation

**Date:** Thursday, June 18<sup>th</sup>, 2009

**Cost:** Event is free to PAEI members

If you would like to become a PAEI member and attend this event, please go to <http://www.paei.org/join.htm> and join now.

**Time:** 9:00 am – 12 Noon **Registration will begin at 8:30 am.**

**Place:** Intel Corporation, 2200 Mission College Blvd. Santa Clara, CA 95054

In order to register for this event please send an e-mail containing registration information listed below to: [Gieselle.Perez@paei.org](mailto:Gieselle.Perez@paei.org)

For program details or further information, please contact Jo-Anne Daniels by phone; (650) 438-1411 or via e-mail; [Jo-Anne.Daniels@paei.org](mailto:Jo-Anne.Daniels@paei.org).

**Seating is limited. Register early!**

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**Please complete one registration form for each attendee. Please print clearly.**  
**Please be sure to fill out the form completely.**

Name: \_\_\_\_\_ Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_ PAEI Member Number: \_\_\_\_\_



## **Tuttle Law Presents: Export Education Webinar Series**

### **Solving the Puzzle of Routed Export Transactions and Other Mysteries of U.S. Census Bureau's Export Reporting Requirements**

**June 25, 2009**

10:00- 11:30 AM Pacific Time June 25, 2009

10:00- 11:30 AM Pacific Time June 25, 2009

10:00- 11:30 AM Pacific Time

Webinar Presenter: George R. Tuttle, III

**Webinar Cost: \$45.00 (\$35.00 for current members of PAEI, ICPA, WIT-NC, ATCP, & CBFANC)**

**Register**

<https://www.regonline.com/62509tuttleweb>

#### **Topics in this program will include:**

- Who can file Electronic Export Information (EEI)
- The four examples of U.S. Principal Parties In Interest (USPPI)
- When is an export transaction "routed" and INCO terms don't matter
- Responsibilities of USPPIs and filing agents in "routed" export transactions
- Determining the USPPI in multi-tiered export transactions
- Export values for "routed" and multi-tiered export transactions
- New Foreign Trade Regulation Penalties and Prior Disclosure Provisions

For questions or further information, please contact Elizabeth MacFarlane at [ecm@tuttlelaw.com](mailto:ecm@tuttlelaw.com).

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**The Bureau of Industry and Security**  
**In Collaboration With The**  
**Professional Association of Exporters and Importers**



Are proud to offer:

**“Complying with U.S. Export Controls”**

**Wednesday, September 23 – Thursday, September 24, 2009**

**Santa Clara, California**

This two-day program is led by BIS's professional counseling staff and provides an in-depth examination of the Export Administration Regulations (EAR). The program will cover the information exporters need to know to comply with U.S. export control requirements on commercial goods. We will focus on what items and activities are subject to the EAR; steps to take to determine the export licensing requirements for your item; how to determine your export control classification number (ECCN); when you can export or reexport without applying for a license; export clearance procedures and record keeping requirements; Export Management Compliance Program (EMCP) concepts; and real life examples in applying this information. Presenters will conduct a number of "hands-on" exercises that will prepare you to apply the regulations to your own company's export activities. This program is well suited for those who need a comprehensive understanding of their obligations under the EAR.

**Instructors:** The instructors are experienced export policy specialists, and enforcement personnel from BIS's field offices, as well as representatives from other U.S. government agencies, as appropriate. The instructors will be available throughout the seminar to answer your questions.

**Location/time:** Hilton Santa Clara, 4949 Great America Parkway, CA 95054. Registration and a continental breakfast begin at 7:30. The program begins at 8:30 and end at 4:30 pm.

**Accommodations:** Please make your room reservations directly with the Hilton Santa Clara by calling (408) 330-0001. **Reserve your room by Tuesday, August 18, 2009** to receive the “PAEI” discounted rate of \$189. [www.hiltonsantaclara.com](http://www.hiltonsantaclara.com).

**Registration:** Cost of this two day seminar is \$350, which includes breakfast, lunch, breaks and training materials. No telephone, fax, nor checks will be accepted for registration. **All registrations for this event must be paid in advance and processed using a credit card online, at** <http://www.acteva.com/booking.cfm?bevaId=181221> (VISA, AMX, or MasterCard)

Last day to register is Tuesday, September 15, 2009. **REGISTER NOW!**

**NO REFUND FOR CANCELLATIONS MADE AFTER Friday, September 11, 2009.** PAEI Tax ID#:680117035. For registration questions, please contact Karen Hebert: (408) 532-7234, [khebertdms@aol.com](mailto:khebertdms@aol.com)

**Questions regarding topics covered should be addressed to BIS's Western Regional Office at (949) 660-0144.**



**WATCH US GROW!**

**March 2009**

**New**

Arun Nagpal	Juniper Networks, Inc.
Linda Pettingill	Pettingill and Associates

**Renew**

Justin Hill	Expeditors International
Greg Malter	Expeditors International
Bill White	White Consulting
Peggy Prince	Hitachi Data Systems
Dan Schultz	Hitachi Data Systems
Laura Putnam	Symantec Corporation
Cindy Shull	MkDenial.com
Karon Giovannoni	Matheson-Trigas, Inc.
Nancy Heider	Rackable Systems, Inc
Loree Stevens	Finisar Corporation
Larry Sullivan	US Dept of Commerce
Kati Babinec, Cuseco	Sulzer Pumps, US Inc.
Amber Jarzombek	RFMW, Ltd.
Laura Lyons	Palm, Inc,

**April 2009**

**New**

Stephanie Harvey

**Renew**

MaryAnn Omerod	VisionSafe Corporation
Toni Paytas	Thomsen and Burke LLP
Mike DeYoung	Dionex Corp.
Rita Spencer-Rout	Cymer
David Condie	Cymer
Jim Crossen	Endwave Corporation

Mary Ann Phillips	Endwave Corporation
Alpha Robinson	MasterBrand Cabinet, Inc.
Nicole Malcolm	Novellus Systems, Inc
Ruth Baratta	RB Logistics Services
Lillian Lopez	Novellus Systems, Inc

**May 2009**

**New**

Denise Perez	New Focus
Jane Iacono	New Focus
James Anzalone	Compliance Assurance, LLC
Karrie Anger	Align Technology, Inc.
Teresa Mashack	Align Technology, Inc.
Craig Miller	Global Trade Experts
Marc Smith	Logistics & Compliance Specialists
Brad Kancigor	Synopys, Inc
Julie Stephenson	Synopys, Inc
Leah Thompson	Spansion
Christina Gonzaga	Morgan, Lewis and Bockius
Patrick Matsumura	Hexcel Corporation
Mani Sanchez	Hexcel Corporation
Lisa Perez	NetApp, Inc.

**Renew**

Jane Solomon	Anritsu Company
Diana Scholtens	Anritsu Company
Fianna Neng	Novellus Systems, Inc.
Bill Dodge	JSR Micro Inc.
Connie Gaston	PerkinElmer, Inc.
John Kim	PerkinElmer, Inc.
John F. McKenzie	Baker & McKenzie
Ray Hirata	Lam Research Corp.
Iris Zhang	Lam Research Corp.

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**WATCH US GROW!**

Martina de la Torre	Symantec Corporation
William P. Conroy	Tyler Search Consultants
Rick Miller	Tyler Search Consultants
Char Henderson	Seki Technotron USA
Sherri Fumo	Seki Technotron USA
Agnes Devera	Ditech Networks
Stacy Mendez	Ditech Networks
Steven W. Baker	Law Offices of Steven W. Baker
Ellen Pierce	Presidio STX, LLC
Sam Miller	Presidio STX, LLC
Robert Bowen	Hitachi Global Storage Technologies, Inc
Marcia Davis	JDS Uniphase Corporation
Andrew Pollack	JDS Uniphase Corporation
Ken Santana	NetApp

**June 2009**

**New**

Jason Lieu	SVTC Technologies
Marilou Vasquez	SVTC Technologies

**Upcoming PAEI/BIS Events**

**Mark Your Calendars!**

- **September 23 - 24 , 2009**  
BIS “Complying with U.S. Export Controls”

**Upcoming PAEI Events**

- **June 18, 2009**  
Technology Transfers and Deemed Exports Seminar

**Details coming soon!**

- **September 2009**  
Vendor Fair

**Watch the PAEI Web site for these and other events,**  
<http://www.paei.org>

**PAEI Members Share Your Insights!**

The P.A.E.I. Newsletter is a publication that is written by its many members. If you have an article you have written, or have any web site that you would like to share with your fellow PAEI members in the next newsletter, please contact:

Karen Hebert at [Karen.Hebert@paei.org](mailto:Karen.Hebert@paei.org)



## P.A.E.I. Membership Information

*The Professional Association of Exporters and Importers is an organization of professionals involved in import/export activities. Objectives of the association include promoting and fostering the role of the import/export professional, providing on-going education relative to regulatory issues, exchanging information and enhancing industry's participation in import/export control issues and policies.*

*P.A.E. I. sponsors quarterly luncheon meetings with featured guest speakers, a bimonthly newsletter, networking and job placement opportunities.*

*P.A.E.I. membership represents both large and small companies in the high-technology community. Membership is open to all persons interested in personal and professional growth in the international arena. Two types of memberships are available and are valid for one year from date of payment. For more information call the PAEI Message Center at telephone (800) 930-PAEI.*

*Complete this application and return it along with your check. Make checks payable to: Professional Association of Exporters & Importers, P.O. Box 612743, San Jose, CA 95161-2743. PAEI's TAX ID NO: 680117035. You may also pay online for your membership at the PAEI web site <http://www.paei.org/>.*

### Check Membership Choice:

\_\_\_\_\_ \$25 Student (must be full time student)    \_\_\_\_\_ \$50.00 Individual    \_\_\_\_\_ \$150.00 Corporate\*\*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Company/Corporate Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

City, State and Zip: \_\_\_\_\_

**\*\*Corporate members please indicate second name:**

2nd Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

How did you hear about P.A.E.I.? \_\_\_\_\_