

§ 750.5

properly acting in such capacity, and cite both the statutory and the regulatory basis for the appeal. The ACEP will review all relevant information and recommendations. The Chair of the ACEP will inform the reviewing agencies of the majority vote decision of the ACEP within 11 days from the date of receipt of the escalation request. Within 5 days of the decision, any dissenting agency may appeal in writing the ACEP's decision to the Secretary of Commerce in the Secretary's capacity as the Chair of the Export Administration Review Board. The written request must be made by the head of the agency requesting escalation and cite both the statutory and the regulatory basis for the appeal. Within the same period of time, the Secretary may initiate a meeting on his or her own initiative to consider a license application. In the absence of a timely appeal, the decision of the ACEP will be final.

(3) *Escalation to the Export Administration Review Board (EARB)*. The EARB will review all relevant information and recommendations, and such other export control matters as may be appropriate. The Secretary of Commerce will inform the reviewing agencies of the majority vote decision of the EARB within 11 days from the date of receipt of the appeal. Within 5 days of the decision, any agency dissenting from the decision of the EARB may appeal the decision to the President. The appeal must be in writing from the head of the dissenting agency. In the absence of a timely appeal, the decision of the EARB will be final.

[61 FR 12829, Mar. 25, 1996, as amended at 62 FR 25463, May 9, 1997]

§ 750.5 Status of pending applications and other requests.

(a) *Information available*. You may contact BIS for status of your pending Classification Request, Advisory Opinion, or license application. For Advisory Opinion requests, telephone (202) 482-4905 or send a fax to (202) 219-9179. For license applications and Classification Requests, telephone BIS's System for Tracking Export License Applications ("STELA") at (202) 482-2752. STELA is an automated voice response system, that upon request via any standard touch-tone telephone, will

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provide you with up to the minute status on any application pending at BIS. Press "0" on your keypad for online instructions or "9" for the letter "Z". Requests for status may be made only by the applicant or the applicant's agent.

(b) *STELA's hours*. STELA is operational Monday through Friday from 7:15am to 11:15pm and on Saturday from 8:00am to 4:00pm, Eastern Time. If you have any difficulty accessing STELA, contact during normal business hours, one of BIS's offices listed in § 748.2(a) of the EAR.

(c) *Procedures to access information on STELA*. Once you dial STELA you will be instructed to enter your Application Control Number using your push button telephone keys. After you enter the Application Control Number, STELA will provide you with the current status of your license application or Classification request.

[61 FR 12829, Mar. 25, 1996, as amended at 62 FR 25463, May 9, 1997]

§ 750.6 Denial of license applications.

(a) *Intent to deny notification*. If BIS intends to deny your license application, BIS will notify you in writing within 5 days of the decision. The notification will include:

(1) The intent to deny decision;

(2) The statutory and regulatory basis for the denial;

(3) To the extent consistent with the national security and foreign policy of the United States, the specific considerations that led to the decision to deny the license application;

(4) What, if any, modifications or restrictions to the license application would allow BIS to reconsider the license application;

(5) The name of the BIS representative in a position to discuss the issues with the applicant; and

(6) The availability of appeal procedures.

(b) *Response to intent to deny notification*. You will be allowed 20 days from the date of the notification to respond to the decision before the license application is denied. If you respond to the notification, BIS will advise you if, as a result of your response, the decision to deny has been changed. Unless you are so advised by the 45th day after the

date of the notification, the denial will become final, without further notice. You will then have 45 days from the date of final denial to exercise the right to appeal under part 756 of the EAR.

§ 750.7 Issuance of licenses.

(a) *Scope.* A license authorizes only a specific transaction, or series of transactions, as described in the license application and any supporting documents. A license application may be approved in whole or in part or further limited by conditions or other restrictions appearing on the license itself or in the EAR. When a license application is approved by BIS, a license is issued as described in paragraph (b) of this section.

(b) *Issuance of a license.* After a license application is approved, a computer generated license is issued by the Department of Commerce bearing the license number and a validation date. Where appropriate, the license will also show an expiration date. Where necessary, attachments to a license will also be validated with the Department of Commerce seal and the date of validation. Exporters must use the complete license number when preparing a Shipper's Export Declaration (SED) and other export control documents, and in communicating with the Department of Commerce concerning the license.

(c) *Changes to the license.* (1) The following non-material changes do not require submission of a "Replacement" license or any other notification to BIS. (If you wish to make any change not identified in this paragraph, you will need to submit a "Replacement" license in accordance with the instructions contained in Supplement No. 1 to part 748 of the EAR, Block 11):

(i) Decrease in unit price or total value;

(ii) Increase in price or quantity if permitted under the shipping tolerances in § 750.11 of this part;

(iii) Increase in price that can be justified on the basis of changes in point of delivery, port of export, or as a result of transportation cost, drayage, port charges, warehousing, currency fluctuations, etc.;

(iv) Establishment of unit or total price in conformance with a "price statement" on a license that permits price to be based on the market price at a specified date plus an exporter's mark-up, or like basis;

(v) Change in intermediate consignee if the new intermediate consignee is located in the country of ultimate destination as shown on the license, except a change in, or addition of, an intermediate consignee involving a consolidated shipment;

(vi) Change in continuity of shipment by unloading from carrier at a country listed in Country Group B (see Supplement No. 1 to part 740 of the EAR) port not in the country of ultimate destination, without the designation of an intermediate consignee on the shipping documents and license, provided:

(A) The purpose is to transfer the shipment to another vessel, barge, or vehicle, solely for onforwarding to the country of destination shown on the shipping documents and the license;

(B) The shipment is moving on a through bill of lading;

(C) The carrier is not registered in, owned or controlled by, or under charter or lease to a country in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR), or a national of any of these countries;

(D) The carrier retains custody of the shipment until it is delivered to the ultimate consignee; and

(E) The original bill of lading or air waybill first issued at the port of export is delivered with the shipment to the ultimate consignee;

(vii) Change in address of purchaser or ultimate consignee if the new address is located within the same country shown on the license; or

(viii) Change in ECCN, unit of quantity, unit price, or wording of the item description (where necessary only for the purpose of conforming to an official revision in the CCL). This does not cover an actual change in the item to be shipped, or an increase in the price or quantity.

(2)(i) For Encryption Licensing Arrangements issued by BIS for exports and reexports of items controlled under ECCN 5A002, 5B002, and 5D002, and for encryption commodities and software previously on the U.S. Munitions List