

§750.11

15 CFR Ch. VII (1-1-04 Edition)

(vi) If the license is to be transferred to a subsidiary or firm, or if you transfer to the transferee all, or a substantial portion, of your assets or business, the transferee must certify that the legal authority changing the exporter imposes on the transferee the responsibility to accept and fulfill the obligations of the transferor under the transactions covered by the license; and

(vii) The following certification:

The undersigned hereby certifies that, if license number(s) _____ is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be retained and made available upon request in compliance with the recordkeeping provisions contained in Part 762 of the Export Administration Regulations. The undersigned further certifies compliance with all requirements of the Export Administration Regulations regarding these licenses.

(c) *Notification of transfer and record-keeping.* Unless instructed otherwise by BIS, you must retain the license(s) pending notification by BIS of the action taken. If the request is approved, you must forward the license(s) to the transferee and the validated letter received from BIS authorizing the transfer. If the transfer request is not approved, the license(s) must either be returned to BIS or used by you if you so choose and have retained the legal and operational capacity fully to meet the responsibilities imposed by the license(s). If your initial request is returned by BIS for additional information, after obtaining the necessary information you may resubmit your request.

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

§750.11 Shipping tolerances.

(a) *Applicability and use of shipping tolerances.* Under some circumstances, you may use a license issued for the export of items from the United States to export more than the quantity or value shown on that license. This additional amount is called a shipping tolerance. This section tells you, as the licensee, when you may take advantage of a shipping tolerance and the amount of shipping tolerance you are permitted to use.

(1) If you have already shipped the full amount approved on your license, you may not use this shipping tolerance provision. No further shipment may be made under the license.

(2) The amount of shipping tolerance you are permitted is based on the "Unit" specified for the item you want to export in the applicable ECCN on the CCL (see Supplement No. 1 to part 774 of the EAR). You must calculate shipping tolerance based on the applicable "Unit" whether that be Number, Dollar Value, or Area, Weight, or other Measure. You may not use any other unit that may appear on your license.

(b) *Calculating shipping tolerances.* There are three basic rules, one for items licensed by "Dollar Value", one for items licensed by "Number", and another for items licensed by "Area, Weight or other Measure".

(1) *Items licensed by "Dollar Value".* If the "Unit" paragraph in the ECCN applicable to your item reads "\$value" or "in \$value", there is no shipping tolerance. You may not ship more than the total dollar value stated on your license.

(2) *Items licensed by "Number".* If the "Unit" paragraph in the ECCN applicable to your item reads "Number" or "in Number", there is no shipping tolerance with respect to the number of units. However, the value of all of your shipments under one license may exceed the total dollar value stated on that license by up to 25%.

(3) *Items licensed by "Area, Weight or Measure".* If the "Unit" paragraph in the ECCN applicable to your item reads "kilograms" or "square meters" or some other unit of area, weight or measure, your shipment may exceed the unshipped balance of the area, weight or other measure listed on your license by up to 10% and the total dollar value shown on your license by up to 25%, unless;

(i) Your license stipulates a specific shipping tolerance; or

(ii) Your item is controlled for short supply reasons and a smaller tolerance has been established. (See part 754 of the EAR).

(c) *Examples of shipping tolerances.* (1) A license authorizes the export of 100,000 kilograms of an item controlled by an ECCN where the "Unit" is stated

as “kilograms”, the total cost of which is \$1,000,000:

(i) *One shipment.* If one shipment is made, the quantity that may be exported may not exceed 110,000 kg (10% tolerance on the unshipped Area, Weight, or Measure balance), and the total cost of that one shipment may not exceed \$1,250,000:

\$1,000,000	(the total value shown on the license)
+250,000	(25% of the total value shown on the license)
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\$1,250,000	

(ii) *Two shipments.* If the first shipment is for 40,000 kg (valued at \$400,000), the second shipment may not exceed 66,000 kg (10% of the unshipped balance of 60,000 kg (6,000 kg) plus the unshipped balance), and the total cost of the second shipment shall not exceed \$850,000:

\$600,000	(the value of the unshipped balance of 60,000 kg)
+250,000	(25% of the original total value shown on the license)
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\$850,000	

(iii) *Three shipments.* If the first shipment is for 40,000 kg (valued at \$400,000) the second shipment is for 20,000 kg (valued at \$200,000), the third shipment may not exceed 44,000 kg (10% of the unshipped balance of 40,000 kg (4,000 kg) plus the unshipped balance), and the total cost of the third shipment can not exceed \$650,000:

\$400,000	(the value of the unshipped balance of 40,000 kg)
+250,000	(25% of the original total value on the license)
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\$650,000	

(2) A license authorizes the export of an item controlled by an ECCN where the “Unit” is stated as “\$ value”, the total cost of which is \$5,000,000. There is no shipping tolerance on this license because the items are controlled by an ECCN where “\$ value” is the stated “Unit”.

(3) A license authorizes the export of 10 pieces of equipment controlled by an ECCN where the “Unit” is stated as “Number”, with a total value of \$10,000,000 and the export of parts and accessories covered by that same entry valued at \$1,000,000:

(i)(A) If one shipment is made, the quantity of equipment that may be exported may not exceed 10 pieces of

equipment because there is no shipping tolerance on the “number” of units. That one shipment of equipment may not exceed \$12,500,000:

\$10,000,000	(the total value shown on the license)
+2,500,000	(25% of the total value shown on the license)
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\$12,500,000	

(B) If the one shipment includes parts and accessories, those parts and accessories may not exceed \$1,000,000 because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(ii)(A) If the first shipment is for 4 pieces of equipment valued at \$4,000,000, the second shipment may not exceed 6 pieces of equipment (no tolerance on “number”) valued at no more than \$8,500,000:

\$6,000,000	(the value of the unshipped 6 pieces).
+2,500,000	(25% of the original total value shown on the license).
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\$8,500,000	

(B) If the first shipment includes \$300,000 of parts and accessories, the second shipment may not exceed \$700,000 of parts and accessories because there is no shipping tolerance on any commodity licensed in terms of dollar value.

(iii)(A) If the first shipment is for 4 pieces of equipment valued at \$4,000,000 and the second shipment is for 3 pieces of equipment valued at \$3,000,000, the third shipment may not exceed 3 pieces of equipment (no tolerance on “number”) valued at no more than \$5,500,000:

\$3,000,000	(the value of the unshipped 3 pieces).
+2,500,000	(25% of the original value shown on the license).
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\$5,500,000	

(B) If the first shipment includes \$300,000 of parts and accessories and the second shipment includes another \$300,000, the third shipment may not exceed \$400,000 because there is no shipping tolerance on commodities licensed in terms of dollar value.

PART 752—SPECIAL COMPREHENSIVE LICENSE

- Sec.
- 752.1 Scope.
- 752.2 Eligible activities.
- 752.3 Eligible items.
- 752.4 Eligible countries.