

§748.15 AUTHORIZATION VALIDATED END-USER (VEU).

Authorization Validated End-User (VEU) permits the export, reexport, and transfer to validated end-users of any eligible items that will be used in a specific eligible destination. Validated end-users are those who have been approved in advance pursuant to the requirements of this section. To be eligible for authorization VEU, exporters, reexporters, and potential validated end-users must adhere to the conditions and restrictions set forth in paragraphs (a) through (f) of this section. If a request for VEU authorization for a particular end-user is not granted, no new license requirement is triggered. In addition, such a result does not render the end-user ineligible for license approvals from BIS.

(a) *Eligible end-users.* The only end-users to whom eligible items may be exported, reexported, or transferred under VEU are those validated end-users identified in Supplement No. 7 to Part 748, according to the provisions in this section and those set forth in Supplement Nos. 8 and 9 to this part that have been granted VEU status by the End-User Review Committee (ERC) according to the process set forth in Supplement No. 9 to this part.

(1) Requests for authorization must be submitted in the form of an advisory opinion request, as described in §748.3(c)(2), and should include a list of items (items for purposes of authorization VEU include commodities, software and technology, except as excluded by paragraph (c) of this section), identified by ECCN, that exporters or reexporters intend to export, reexport or transfer to an eligible end-user, once approved. To ensure a thorough review, requests for VEU authorization must include the information described in Supplement No. 8 to this part. Requests for authorization will be accepted from exporters, reexporters or end-users. Submit the request to:

The Office of Exporter Services, Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Pennsylvania Avenue, NW, Room 2705,
Washington, DC 20230; or to

The Office of Exporter Services, Bureau of Industry and Security
U.S. Department of Commerce
P.O. Box 273,
Washington, DC 20044.

Mark the package sent to either address “Request for Authorization Validated End-User.”

(2) In evaluating an end-user for eligibility under authorization VEU, the ERC will consider a range of information, including such factors as: the entity’s record of exclusive engagement in civil end-use activities; the entity’s compliance with U.S. export controls; the need for an on-site review prior to approval; the entity’s capability of complying with the requirements of authorization VEU; the entity’s agreement to on-site reviews to ensure adherence to the conditions of the VEU authorization by representatives of the U. S. Government; and the entity’s relationships with U.S. and foreign companies. In addition, when evaluating the eligibility of an end-user, the ERC will consider the status of export controls and the support and adherence to multilateral export control regimes of the government of the eligible destination.

(3) The VEU authorization is subject to revision, suspension or revocation entirely or in part.

(4) Information submitted in a VEU request is deemed to constitute continuing representations of existing facts or circumstances. Any material or substantive change relating to the authorization must be promptly reported to BIS, whether VEU authorization has been granted or is still under consideration.

(b) *Eligible destinations.* Authorization VEU may be used for the following destinations:

- (1) The People's Republic of China.
- (2) India

(c) *Item restrictions.* Items controlled under the EAR for missile technology (MT) and crime control (CC) reasons may not be exported or reexported under this authorization.

(d) *End-use restrictions.* Items obtained under authorization VEU may be used only for civil end-uses and may not be used for any activities described in part 744 of the EAR. Exports, reexports, or transfers made under authorization VEU may only be made to an end-user listed in Supplement No. 7 to this part if the items will be consigned to and for use by the validated end-user. Eligible end-users who obtain items under VEU may only:

- (1) Use such items at the end-user's own facility located in an eligible destination or at a facility located in an eligible destination over which the end-user demonstrates effective control;
- (2) Consume such items during use; or
- (3) Transfer or reexport such items only as authorized by BIS.

Note to paragraph (d): Authorizations set forth in Supplement No. 7 to this part are country-specific. Authorization as a validated end-user for one country specified in paragraph (b) of this section does not constitute authorization as a validated end-user for any other country specified in that paragraph.

(e) *Certification and recordkeeping.* Prior to an initial export or reexport to a validated end-user under authorization VEU, exporters or reexporters must obtain certifications from the validated end-user regarding end-use and compliance with VEU requirements. Such certifications must include the contents set forth in Supplement No. 8 to this part. Certifications and all records relating to VEU must be retained by exporters or reexporters in accordance with the recordkeeping requirements set forth in part 762 of the EAR.

(f) *Reporting and review requirements.*

(1)(i) *Reports.* Exporters and reexporters who make use of authorization VEU are required to submit annual reports to BIS. These reports must include, for each validated end-user to whom the exporter or reexporter exported or reexported eligible items:

- (A) The name and address of each validated end-user to whom eligible items were exported or reexported;
- (B) The eligible destination to which the items were exported or reexported;
- (C) The quantity of such items;
- (D) The value of such items; and

(E) The ECCN(s) of such items.

(ii) Reports are due by February 15 of each year, and must cover the period of January 1 through December 31 of the prior year. Reports must be sent to:

Office of Exporter Services, Bureau of Industry and Security,
U.S. Department of Commerce,
14th Street and Constitution Avenue, NW, Room 2705
Washington, DC 20230.

Mark the package “Authorization Validated End-User Reports”

(2) *Reviews.* Records related to activities covered by authorization VEU that are maintained by exporters, reexporters, and validated end-users who make use of authorization VEU will be reviewed on a periodic basis. Upon request by BIS, exporters, reexporters, and validated end-users must allow review of records, including on-site reviews covering the information set forth in paragraphs (e) and (f)(1) of this section.