



September 8, 2013

Regulatory Policy Division  
Bureau of Industry and Security  
U.S. Department of Commerce  
Room 2099B  
14<sup>th</sup> Street and Pennsylvania Ave. NW.  
Washington, DC 20230

RE: RIN 0694-AF64

To Whom It May Concern,

I am writing on behalf of the Association of University Export Control Officers (AUECO), a group of 29 senior export practitioners with experience at accredited institutions of higher learning in the United States (U.S.). AUECO members monitor proposed changes in laws and regulations affecting academic activities and advocate for policies, procedures, and award terms and conditions that advance effective university compliance with applicable U.S. export controls and trade sanction regulations.

AUECO supports the goals of the Export Reform Initiative. AUECO is specifically interested in contributing to the export reform effort in order to ensure that the resulting regulations do not have an adverse impact on academic pursuits. As a result, AUECO is providing the following comments in response to the U.S. Department of Commerce's second request for public comments on its proposed revision of the Export Administration regulations (EAR) to include the control of military electronics equipment and related items the President determines no longer warrant control on the U.S. Munitions list (USML). AUECO appreciates the Department of Commerce's careful consideration of and response to comments previously provided to the November 28 (military electronics) proposed rule. We agree that the publication of the April 16 (initial implementation) rule eliminates much uncertainty in classifying items.

AUECO remains concerned that, as in the case with the establishment of the "600 series" for other items moving from the USML to the CCL, ECCNs 3D611 (software) and 3E611 (technology) include sweeping catchalls of activities into the controls. 3D611 includes software "specially designed" for the "development", "production", operation **or** maintenance of commodities controlled under 3A611, and 3E611 includes technology "required" for "development", "production", operation, installation, maintenance, repair, overhaul, **or** refurbishing of commodities or software controlled under ECCNs 3A611, 3B611 or 3D611 (emphasis added). This is in contrast to "use" as defined in EAR Part 772.1, which is "operation, installation..., maintenance..., repair, overhaul **and** refurbishing" (emphasis added). On university campuses,

equipment subject to the EAR and enumerated on the CCL is operated by a wide variety of individuals, including foreign national students and trainees in a variety of classroom and research settings without information related to the additional elements of “use” being conveyed. As a result, these activities result in a low licensing burden to both the universities and to BIS. AUECO is concerned that the proposed definitions in 3D611 and 3E611 will impose a large administrative burden on the university community due to the need to obtain deemed export licenses for foreign national students, technicians, visitors, faculty, and research staff to simply have access to items in the conduct of fundamental research or teaching activities on our campuses, particularly in the context of the inclusion of items developed under contract to the Department of Defense in Category XI(a)(7) of the USML in the accompanying Department of State proposed rule.

AUECO appreciates the opportunity to provide comments on these proposed changes.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Peloso".

Elizabeth Peloso

Chair

Association of University Export Control Officers

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