July 23, 2012

We appreciate the opportunity to submit comments on the following:

1) Amendment to the ITAR: Revision of USML Category X, Protective Personnel Equipment and Shelters, proposed rule published in the Federal Register on 6/7/12.
2) Revisions to the EAR: Control of Personal Protective Equipment, Shelters, and Related Items the President Determines No Longer Warrant Control Under the USML, proposed rule published in the Federal Register on 6/7/12.

The current ITAR identifies controlled shelters in USML X(b) as those that are designed to protect against the effect of ballistic shock or impact; or nuclear, biological, or chemical contamination.

Shelters are manufactured using panels constructed of aluminum skins bonded to a honeycomb or foam and beam core, or of composite material construction. The primary function of shelters is to protect equipment and operators from the environments encountered during transport and field operation by providing thermal and acoustic insulation; electromagnetic shielding; resistance to penetration of water, sand, and dust; as well as shock and vibration isolation.

A basic (unmodified) shelter is a bare enclosure into which the manufacturer, the military, or other customers can install equipment racks or cabinets, heating and air conditioning systems, power and signal distribution systems, lighting, operator seats, antenna masts, electronic equipment etc., for the particular program or application. There are many uses for shelters, and they have both logistical and military applications. Shelters can be used for command posts centers; repair, maintenance, and workshop facilities; material transport structures; office and medical buildings; and living quarters. The general consumer of shelters is the Government.

There are several different types of shelters described as follows:

ISO Shelters: These shelters can be expandable and complexible and are ground deployable. The basic shelter structure is offered in several configurations including side removable curbside & roadside walls, side close-out panels, double end cargo doors, recessed end walls, and side & end personnel door designs. These shelters are transported using all common intermodal transport methods.

Vehicle Mounted Shelters: There are numerous shelters designed to be installed onto military trucks and the typical end-use is to house operators and equipment.

An example of a vehicle-mounted shelter is the Cargo Bed Cover. These shelters are lightweight, rigid structures that are designed to provide a vented, weather- tight and lockable enclosure to store, protect and secure equipment, tools, and other theft-prone items without interfering with the mobility and functionality of the vehicle on which they are being transported. A unique feature of the CBCs is that they are height-reducible in order for them to remain on the back of a vehicle during C-130 air transport. CBCs offer a more secure and durable alternative to the standard canvas covers and are intended to replace the wooden covers that are often built by troops to provide secure storage on vehicles.

We have several reasons to believe that a basic (unmodified) shelter is not an export-controlled commodity as referenced in the bullet points below.

- We have researched the Federal Logistics Information System (FLIS) which is a US Federal Government system for identification of items in the US Government's inventory. The US Department of Defense maintains the FLIS System. The DOD has identified most of the shelters with DMIL Code A – which indicates the items are not USML or CCL items. See the list at the end of this document for reference.

- We have a current US Army Drawing Package for an Electrical Equipment Shelter labeled with Distribution Statement A – approved for public release.

- Several of the Army Standard Family shelters are defined by a drawing package that has unlimited distribution rights.

- A foreign company is currently manufacturing and delivering shelters for a US Army contract, which indicates the design is currently available in the foreign market.

- Finally, we have reviewed the US Department of State's Commodity Jurisdiction (CJ) webpage that identifies some shelters as EAR99 commodities. Although we are not privy to the actual submittal or full description of the submitted CJ, the general description seems to fit the shelter commodity.

We desire a more detailed definition to define at what point a shelter becomes export controlled. We recommend at points of certain modifications or installations, such as the installation of electronic or other equipment that is itself export controlled.

We respectfully would like to recommend that the following shelter modifications are not considered to be controlled:

- CARC (Chemical Agent Resistance Coating) PAINTED SHELTERS. This is paint **in its cured form** to help resist contaminants (resistance coating) on the surface of the shelter to which it is applied. It cannot be stripped from the shelter to be used for any other purpose or application. CARC paint MIL-DTL-53039 and MIL-DTL-64159 are readily available on the internet and provide definitive performance data. However, we believe CARC paint in its uncured, unapplied, and liquid form to be a controlled commodity under USML Category XIV(f).

- EMI/RFI (Electromagnetic/Radio Frequency Interference) SHIELDING. The US Army's drawing package which is approved for public distribution includes this shielding; the foreign company is currently manufacturing and providing shielded shelters to the U.S. Army, and the State Department's CJ page identifies an EMI/RFI Shielded Pouch as EAR99. These properties are also found in commercial applications.

THE PROPOSED RULE: The proposed rule suggests moving USML X (b) to EAR CCL 1A613 and identifies shelters as follows:

b.1. Provide ballistic protection for military systems, or

b.2. Protect against nuclear, biological, or chemical contamination

In an effort to help establish a clearer identification of controlled versus not controlled shelters, we respectfully recommend the following:

All types of (transportable) shelters to be moved from the USML to the CCL and classified as follows:

NOT CONTROLLED, Commerce Department Jurisdiction, EAR99:

1. Basic Shelters and Basic Shelters modified with items that are not controlled. Examples of non-controlled modifications are:
    a. Lighting, Raceway
    b. Power and signal distribution
    c. Heating and air conditioning
    d. Equipment racks and/or cabinets
    e. RFI/EMI Shielded
    f. CARC Painted
    g. Skid or Jack Assemblies, Casters
    h. Ladders/Roof Access Steps
    i. Special door openings and/or emergency kickout or escape hatch panels
    j. Generator Trailers

CONTROLLED, Commerce Department Jurisdiction, ECCN 1A613 b:

1. Shelters modified with installation of controlled items or equipment such as:
    a. Electronic, Radar, or Surveillance Equipment
    b. High Altitude Electromagnetic Pulse (HEMP)
    c. Ballistic Protection
    d. Nuclear, Biological or Chemical Contamination (NBC) Protection

DMIL Code A = NOT USML/CCL ITEMS. DMIL Codes B & F = ARE USML ITEMS

Army	AF	Marine	Navy	NSN	Description	FLIS Description	Schedule B #	DMIL Code
				5340-01-455-8700	HMMWV Mounting Kit	Hardware Kit, Mechanic Equipment		A
X				5411-00-489-6076	Shelter, Electronic Equipment, S-250/G, EMI Shielded	Shelter, Nonexpandable	9406.00.8090	A
X				5411-00-999-4935	Shelter, Electronic Equipment, S-250/G Unshielded	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-092-0892	Shelter, Electrical Equipment, S-280(C)/G, Unshielded	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-124-1377	ISO, Shelter, Tactical, Expandable One Side, S-783/G (60 Amp)	Shelter, Expandable, One Side		A
X				5411-01-136-9837	ISO, Shelter, Tactical, Nonexpandable, S-781/G (60 Amp)	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-136-9838	ISO, Shelter, Tactical, Expandable, Two Side S-785/G (60 Amp)	Shelter, Expandable	9406.00.8090	A
		X		5411-01-206-6077	ISO, Knockdown	Shelter, Nonexpandable	9406.00.8090	A
		X		5411-01-206-6078	ISO, 20 Foot, EMI Shielded	Shelter, Nonexpandable	9406.00.8090	A
		X		5411-01-206-6079	ISO, 10 Foot, EMI Shielded	Shelter, Nonexpandable	9406.00.8090	A
		X		5411-01-209-3451	ISO, 20 Foot, General Purpose	Shelter, Nonexpandable	9406.00.8090	A
	X			5411-01-280-2909EJ	Expandable, S-530 A/G	Shelter, Nonexpandable	9406.00.8090	B
		X		5411-01-287-4341	ISO, 10 Foot, General Purpose	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-294-6390	ISO, Shelter, Tactical, Nonexpandable, S-782/G (100 Amp)	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-294-9866	ISO, Shelter, Tactical, Expandable, Two Side S-786/G (100 Amp)	Shelter, Expandable	9604.00.8090	A
X				5411-01-295-3433	ISO, Shelter, Tactical, Expandable One Side, S-784/G (100 Amp)	Shelter, Expandable	9406.00.8090	A
X				5411-01-304-3069	Shelter, Electrical Equipment, S-280(C)/G, EMI Shielded	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-312-9084	Modular Extendable Rigid Wall Shelter (MERWS)	Shelter, Expandable	9406.00.8090	A
			X	5411-01-355-4318	ISO, Integration Unit Mobile Facility	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-4319	ISO, SOMF B (Modified 80" Door)	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-4320	ISO, SOMF A	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-4321	ISO, SOMF B	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-4322	ISO, BMF A	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-4323	ISO, BMF B	Shelter, Nonexpandable	9406.00.8090	A
			X	5411-01-355-6566	ISO, SOMF C	Shelter, Nonexpandable	9406.00.8090	A
				5411-01-387-4894	GSS-1497 Shelter	Shelter, Nonexpandable	9406.00.8090	A
X				5411-01-467-3185	Cargo Bed Covers, Type II (M105A2 Ton Trailer),Camouflage	Cover, Cargo Bed, Trailer	9406.00.8090	A
X				5411-01-467-3243	Cargo Bed Covers, Type I (HMMWV), Camouflage	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	A
X				5411-01-472-7852	Cargo Bed Covers, Type III (M35A2 Truck, M1078 LMTV, M1082 LMTV Trailer), Camouflage	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	A
X				5411-01-472-7857	Cargo Bed Covers, Type IV (M923 Truck, M1083 LMTV, M1095 LMTV Trailer), Camouflage	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	A
X				5411-01-473-5051	Shelter, Electrical Equipment, Lightweight, S-788/G Type I	Shelter, LMS, TY I		A
X				5411-01-473-5055	Shelter, Electrical Equipment, Lightweight, S-788/G Type III	Shelter, LMS TY III		F
X				5411-01-479-1925	Cargo Bed Covers, Type II (M105A2 Ton Trailer), Desert Sand	Cover, Cargo Bed, Trailer	9406.00.8090	B
X				5411-01-479-1928	Cargo Bed Covers, Type I (HMMWV), Desert Sand	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	B
X				5411-01-479-1932	Cargo Bed Covers, Type III (M35A2 Truck, M1078 LMTV, M1082 LMTV Trailer), Desert Sand	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	B
X				5411-01-479-1933	Cargo Bed Covers, Type IV (M923 Truck, M1083 LMTV, M1095 LMTV Trailer), Desert Sand	Cover, Cargo Bed, Vehicle Tactical	9406.00.8090	B
X				5411-01-548-5065/5067	Cargo Bed Covers CBC) Type IAI, Camouflage/Desert Sand	Cover, Cargo Bed Vehicle		A
X				5411-01-548-5068/5069	CBC Type IIAI, Camouflage/Desert Sand	Cover, Cargo Bed Tra		A
X				5411-01-559-8738/8741	CBC Type IVAI, Camouflage/Desert Sand	Cover, Cargo Bed, Veh		A
X				5411-01-559-8740/8739	CBC Type IIIAI, Camouflage/Desert Sand	Cover, Cargo Bed, Veh		A
				5999-00-880-2188	EMI Modification Kit	Parts Kit, Electronic Equipment	8543.90.9000	A